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AUTHORIZATION LEGISLATION AND OVERSIGHT OF THE U.S. DEPARTMENT OF JUSTICE (DEA and FBI)

HEARINGS

BEFORE THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

THE DEPARTMENT OF JUSTICE AUTHORIZATION ACT FOR FISCAL YEAR 1988

FEBRUARY 5 AND MARCH 3, 1987

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AUTHORIZATION LEGISLATION AND OVERSIGHT OF THE U.S. DEPARTMENT OF JUSTICE

(DEA)

THURSDAY, FEBRUARY 5, 1987

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The committee met, pursuant to notice, at 10:02 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Joseph R. Biden, Jr. (chairman of the committee) presiding.

Also present: Senators Thurmond, DeConcini, Humphrey, and Specter.

OPENING STATEMENT OF CHAIRMAN JOSEPH R. BIDEN, JR.

The CHAIRMAN. The hearing will come to order, please.

Good morning, Mr. Lawn. Welcome to the committee in our first of the oversight hearings relating to the Drug Enforcement Administration. I have a brief opening statement and then I would invite any comments you may have.

As part of our continuing oversight hearings of the Justice Department, the Judiciary Committee today is going to be examining the Department's narcotics control and law enforcement operations, two areas, quite frankly, that I intend to make very high priorities in this committee.

It has been years now that we have been working together, back prior to the Ford administration and straight through, and a lot has happened in the last 10 years, much of it good and I think it can even get better, in my view.

The 1984 crime bill and the 1986 drug bill included changes that affect both the Drug Enforcement Administration and the Criminal Division, and this committee wants to examine how they are being implemented and how these changes are being put into effect, as well as the Department's general drug and law enforcement policies.

Traditionally, John Lawn, the DEA Administrator, has testified before this committee, and in an effort to conduct broader oversight, the committee plans to hear from a number of the Department's bureau and division heads during the next month. So we will hear later this morning from Mr. William Weld, Assistant Attorney General for the Criminal Division, as part of this ongoing hearing.

Mr. Lawn, I would like to welcome you today before the committee. I am encouraged that you come before us today representing a substantially larger agency with more personnel and resources than you probably expected at this time last year or this time in past years.

At last year's oversight hearing, you defended a $411 million budget, with 5,051 positions. And with the passage of the Anti-Drug Abuse Act of 1986 and the anticipated supplemental appropriations for this fiscal year, the Drug Enforcement Administration has been increased in size by 19 percent.

I will be interested in hearing how you will use these new funds, and particularly your timetable for putting more agents on the streets. I am also interested in how well you have been able to use the provisions of the 1984 crime bill and the 1986 drug bill as you begin to implement them.

Specifically, I am concerned about reports of a backlog of forfeiture cases and the General Accounting Office reports of management problems in the forfeiture program.

In the international effort, I would like to get your assessment on the situation in Colombia, and I should say ahead of time, congratulations, based on this morning's report of the capture and extradition of Carlos Lehder, a notorious cocaine trafficker.

I think this is a remarkable showing of courage on the part of the Agency and on the part of the Colombian Government, who should be congratulated.

On a less positive note, the administration has been indicating that it is working toward improving the situation in Mexico. Quite frankly, I do not see as much reason for optimism there.

But let me say that in the past, the relationship between this committee and this chairman and the agency, although we have occasionally disagreed, has been one of support.

You are on the front lines; you are more than the thin blue line between civility and anarchy. You are whom we are betting on, and I think we have got some pretty damned good people to bet on.

So, as usual, what will happen in this hearing is we will want to give you more than you want to take and we will want more answers than you are ready to give. But it begins in a spirit of forcing this process, your agency, the Justice Department, and this committee and this congress, toward dealing with what we all acknowledge to be a very significant problem.

At some point prior to us writing the final chapter on this year's budget, we are going to have to be able to convince the American people and the press of our ability to do something about these problems we face.

The American public has grown weary of political rhetoric and grandiose statements about wars that they realize we can not win. Solving the drug problem will not happen overnight. It may take decades. What we need to do is enlist the American people in a long-term, national effort. But we must not overpromise. They will join us if they believe our plan, our strategy for dealing with this problem, is credible. The first step is to set achievable, reasonable goals. Step by step, we can do something about drug abuse in America.

That is not all on your shoulders, I acknowledge. You are the enforcement piece of this, and we are going to speak to that today. But I want you to know before we close the circle on this, as these authorization hearings come to a close, I am going to have to know what part you think the other pieces play in aiding your effort and how much has to be done in order to make more progress this year than we did last, and we made more progress last than the year before, and so on.

Now, we have a statement from Senator Hatch which we will insert in the record at this point.

[The following was received for the record:]

OPENING STATEMENT OF ORRIN G. HATCH
AUTHORIZATION/OVERSIGHT OF THE DRUG ENFORCEMENT ADMINISTRATION
AND THE CRIMINAL DIVISION OF THE DEPARTMENT OF JUSTICE

TODAY THE COMMITTEE IS AGAIN MEETING TO REVIEW THE DEPARTMENT OF JUSTICE AUTHORIZATION ACT FOR FISCAL YEAR 1988. THE FOCUS THIS MORNING WILL BE ON THE CRIMINAL DIVISION AND THE DRUG ENFORCEMENT ADMINISTRATION. A REVIEW OF THE BUDGET REQUESTS IN THESE AREAS IS ESPECIALLY IMPORTANT AS WE ASK THE DEPARTMENT TO CONTINUE INCREASING ITS EFFORTS IN THE FIGHT AGAINST ILLEGAL DRUG TRAFFICKING AND ORGANIZED CRIME.

THE DEPARTMENT'S EMPHASIS IN ITS BUDGET REQUESTS FOR THE DRUG ENFORCEMENT ADMINISTRATION INCLUDE STRENGTHENING THE COMMUNICATIONS SYSTEMS, PROVIDING FOR ASSET REMOVAL TEAMS ON A REGIONAL BASIS, AND ENHANCING TECHNICAL AND AND SUPPORT OPERATIONS. ALL OF THESE INCREASES ARE BEING SOUGHT IN ORDER TO COMPLY WITH THE COMMITMENT OF CONGRESS TO REMOVE THE TERRIBLE DRUG PROBLEM FROM OUR COUNTRY.

THE REQUESTS FOR INCREASES IN THE CRIMINAL DIVISION DEMONSTRATE A DESIRE BY THE DEPARTMENT TO COMBAT ORGANIZED CRIME, TERRORISM, AND PROCUREMENT FRAUD. THE CREATION OF 160 NEW POSITIONS IN THAT DIVISION IS A CENTRAL ELEMENT IN THE DEPARTMENT'S PROGRAM TO EXPAND ITS AFFIRMATIVE LITIGATION AS A RESPONSE TO THE RECOMMENDATIONS OF THE PRESIDENT'S COMMISSION ON ORGANIZED CRIME.

ALTHOUGH I MAY NOT AGREE WITH EACH SPECIFIC ITEM OF THE BUDGET REQUEST, THE DEPARTMENT'S PROPOSAL REPRESENTS A CONTINUING COMMITMENT TO EFFECTIVE LAW ENFORCEMENT. I APPRECIATE THE OPPORTUNITY TO DISCUSS THE NEEDS OF THE DEPARTMENT IN CARRYING OUT THESE IMPORTANT FUNCTIONS.

The CHAIRMAN. I invite you to make your opening statement and then we will get down to questions.

STATEMENT OF JOHN C. LAWN, ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE

Mr. LAWN. Thank you very much, Mr. Chairman. I have a formal statement for the record, but I do have a brief summary statement, if I may.

First, I would like to congratulate you on your assuming the chairmanship of this most important committee.

The CHAIRMAN. Thank you.

Mr. LAWN. I also thank you for the tremendous support you have given to drug enforcement during the time of our relationship in the last five years, and I would like to acknowledge on behalf of the personnel of the Drug Enforcement Administration your kind comments about what enforcement is doing.

The CHAIRMAN. Well, you folks are the best; I mean, you really are.

Mr. LAWN. Thank you very much, sir.

I have taken the liberty of bringing with me a summary of our initiatives and accomplishments in fiscal year 1986, and that is available, rather than going through the mundane routine of talking about those accomplishments, but I think that enforcement has done a good job in the past fiscal year.

The passage of the 1983 Organized Crime and Drug Enforcement Act and the 1985 drug initiative supplementals, the Comprehensive Crime Control Act of 1984, and the Anti-Drug Abuse Act of 1986, to which you referred, and now the Omnibus Drug Supplemental Appropriation Act of 1987, have and will continue to strengthen the overall U.S. Government and DEA enforcement capabilities.

We are now beginning to see the results from the legislative and resource enhancements. DEA has made dramatic gains in arrests of major violators and seizures of assets.

For example, the arrest of violators in major cases jumped more than 35 percent between 1985 and 1986, from 9,441 to 12,819 arrests. In all, 18,746 drug-related arrests were made during the past fiscal year.

Convictions in major cases increased more than 22 percent, from 6,221 convictions to 7,595 convictions, between 1985 and 1986. Assets seized by the Drug Enforcement Administration during 1986 totaled more than $378 million, of which more than 40 percent was in currency.

The value of assets seized by DEA represents an increase of 53 percent over fiscal year 1985, when assets valued at $246 million were seized. In 1986, for the first time the value of seized assets exceeded our appropriation.

Drugs removed in the United States by DEA increased substantially during the fiscal year. Cocaine seizures increased by more than 52 percent. Marijuana and hashish jumped 11.4 percent. Dangerous drugs, which includes stimulants, depressants and hallucinogens, were marked by a 76-percent rise in removals.

The seizure of clandestine laboratories producing illicit drugs also increased dramatically in 1986. Over 440 clandestine laborato-

ries were seized in 1986, an increase of nearly 35 percent from the prior year.

To continue and enhance these achievements, DEA is requesting for 1988 $522 million and 5,730 permanent positions, of which 2,891 are special agent positions. This represents a new increase of $32 million and 50 positions above the 1987 level.

The 1988 budget includes program increases of $24.6 million and 108 positions, including 36 special agent positions. These increases, however, are partially offset by reductions for management and productivity savings of $911,000 and 58 positions.

A brief description of our proposed program increases are as follows: a program increase of 15 positions and $12.4 million to provide the necessary resources for the second phase of securing the TEMPEST-rated capability of the office automation system and the necessary support staff; a program increase of 26 positions and $4.5 million to provide the additional DEA and contracted ADP technical support necessary to meet the field and headquarters data entry requirements; a program increase of 30 positions, of which 20 are special agent positions, and $2 million to establish asset removal teams in the Miami, Chicago, New York, Houston, Washington, DC, and San Francisco field divisions, and to expand the team already in existence in San Diego. These teams will enable DEA to make maximum effective use of the expanded asset forfeiture law.

We are also requesting a program increase of nine positions, which includes six special agents, and nearly $1 million to provide improved security for our staff and for our facilities.

In addition, we are requesting a program increase of 28 positions, of which 10 are special agents, and nearly $4 million, including $2 million for technical equipment, to provide for special agents and other highly skilled technicians trained in the covert installation and adaptation of technical equipment to enhance DEA investigations.

In summary, I would like to also bring to the chairman's attention the importance we have placed on the Department's 1988 authorization bill which you introduced earlier this week. We strongly believe that moving forward on this bill is most important.

Mr. Chairman, thank you very much.

The CHAIRMAN. Thank you, Jack. I would like to talk a little bit about the Colombian situation and, later, arrest and extradition.

Let me ask you if you would tell us a little bit about the details of the arrest and the extradition of Mr. Carlos Lehder, who allegedly put out a bounty on our agents, as well as being one of the biggest drug kingpins in the world.

Mr. LAWN. Yes, sir, if I could begin, Mr. Chairman, by talking about the tremendous courage of the President of Colombia in having his military take action on information that was received as to the location of Carlos Lehder in an area called Los Negros, near Medellin, Colombia.

The Colombian military forces went in yesterday morning and attacked the ranch where Carlos Lehder was believed to be sequestered. A gunfight ensued in which an officer of the Colombian National Police was wounded.

Carlos Lehder was arrested, along with 15 of his guard force.

The CHAIRMAN. Can you give me a sense of the size of the force that went in and was required, to get a sense of the operation?

Mr. LAWN. No, sir, I do not have those numbers.

The CHAIRMAN. OK.

Mr. LAWN. But I think the very important thing is that the traffickers in Colombia have tried to intimidate the President of Colombia and the entire administration of the government of Colombia in killing judges; they have assassinated 29 judges.

They have assassinated nine justices of the supreme court. They have killed over 300 military officers. They have killed the editor of the paper who spoke out against trafficking.

They have tried to intimidate, and President Barco last night refused to react to that intimidation, and I think that they deserve quite a lot of credit.

The CHAIRMAN. That is quite an incredible act. It is not like there is a threat of direct retaliation; there is almost a certainty when a man has to make that kind of decision.

Mr. LAWN. Yes, sir, there is.

The CHAIRMAN. And he really deserves a great deal of credit.

Let me ask you, Jack, what kind of impact—I know this will be guesswork and maybe you do not want to speculate, but what kind of impact do you think this arrest and extradition will have upon the actual trafficking networks that come out of Colombia?

Mr. LAWN. I think that the impact will not be felt so much in cocaine coming out of Colombia, but rather in a commitment from the other source countries in South America who are looking at Colombia to see whether the Government of Colombia would react adversely to intimidation.

The Government of Bolivia last year began that operation called Blast Furnace. There are several other countries in South America that are looking for support for similar operations, but there was a fear that the intimidation factor may be so overwhelming that this would not go forward.

I think the impact will be felt in, now, those source countries and other countries around the world recognizing that it is important to work within the system to rid the system of individuals who are major traffickers.

The CHAIRMAN. But you are not going to argue today that his arrest means we are going to see a precipitous decline in the amount of cocaine coming out of Colombia?

Mr. LAWN. No, sir, because if I were to do that, you would have me up next week.

The CHAIRMAN. I think it is important we be realistic. I happen to agree with you. The tendency in the past would have been for all of us to herald this as the end of cocaine trafficking, and I think it is very important we level with not only the Congress, but the American people about this.

But I agree with you, it has a significant psychological impact, particularly if we are able to follow up now. To that degree, does this arrest mean that there is a need to increase the security for our agents in Latin America in the near term?

Mr. LAWN. We have already increased the security measures. We have plans we put into effect at the times that we believe critical. That plan has already gone into effect.

The CHAIRMAN. Do you anticipate that this arrest will result in additional arrests coming from of his incarceration and extradition in terms of his network, or do you think you got all there is to get right now?

Mr. LAWN. No, sir. I think the former. I think that this is an indication, number one, that the Government of Colombia is committed. We have extradition requests for 109 citizens of Colombia, of whom 13 have been extradited.

I think that this is clear indication that the Government of Colombia plans to move forward with the extradition process.

The CHAIRMAN. Is there any advice you have to those of us in the Congress and/or the administration that you are able to give publicly that would embolden them to continue this course of action?

Mr. LAWN. I think, Mr. Chairman, that it is very important that our Congress speak out very strongly in support of what the President has done, what President Barco has accomplished, because when we talk about the front lines, he is the front line.

He is the target, and the courage that he has shown is unique, not unique in 1987, but I think unique in contemporary history.

The CHAIRMAN. Well, I would like you, to give a list of the Colombian officials, elected or police officials, that you believe played a role in this and I would like to personally thank them.

I know people will probably think this is a mild exaggeration, but I want to put this in perspective. This man has a chance, based on past history, of being shot dead for taking the action he took.

This organization has killed judges and elected officials and reporters and newspaper owners and editors. And so it is not a mild thing that was done.

Mr. LAWN. Mr. Chairman, if I could just conclude on Colombia, several weeks ago we had the former Minister of Justice who is now the Colombian Ambassador to Hungary who was the target of an attempted assassination in Budapest.

This was an attempt by the Medellin Cartel, by the Colombian traffickers, to say you may run away, but you cannot hide even behind an iron curtain country.

The CHAIRMAN. Yes.

Mr. LAWN. With that background, for the President to take the action he took, I think is remarkable.

The CHAIRMAN. I agree.

I would like to talk a little bit about Mexico now. We have heard little in recent months about any progress in reducing production or the transshipment of drugs or improvements in coordinating law enforcement activities.

Can you comment on the current situation, and what progress have you made regarding drug production, the *Camarena* case, and the law enforcement agreements we have talked about?

Mr. LAWN. Yes, sir. In regard to Mexico, production has increased substantially. Opium production has increased in Mexico.

The CHAIRMAN. Increased?

Mr. LAWN. Increased, yes, sir.

Marijuana production has increased. The eradication program in Mexico has also increased, so it is not as though the eradication program is not better this year than it was last year. However, the eradication program has not caught up with production.

We have also seen a substantial increase in cocaine transiting through Mexico from the traditional source countries. With the impact of our efforts in the Caribbean, in Florida, the trafficker has merely diverted many shipments through Mexico. So there is increased cocaine coming from Mexico.

In that regard, Operation Alliance was started and in the first three months of Operation Alliance, seizures at the border have increased three-fold, and those efforts are ongoing.

We have talked as recently as a week ago to the Attorney General of Mexico about putting Mexican federal judicial police officers or Mexican customs officers on United States Customs aircraft on our side of the border so that they can coordinate in the pursuit by Mexican aircraft into Mexican air space. So those efforts are continuing.

The *Camarena* case—recently, indictments were returned in the Southern District of California on two individuals who are drug traffickers who we believe were also involved in the abduction and murder of Kiki Camarena. Progress is slow.

In December of 1986, letters rogatory were prepared by Special Agent Victor Cortez, who was assaulted in Guadalajara. That process is ongoing. I would like to see accelerated progress, however, in Mexico on both the *Cortez* case and on the case involving the murder of Kiki Camarena.

The CHAIRMAN. Last October, I was told by Justice officials that a multilateral assistance treaty was about to be signed with Mexico. Did that occur, and if not, why not?

Mr. LAWN. We had anticipated last week, with the visit of Attorney General Garcia Ramirez from Mexico, that the mutual legal assistance treaty would be signed. It was not signed as of last week.

I was told that it is ready to be signed, but more than that, I am sorry, Mr. Chairman, I have no information.

The CHAIRMAN. Well, I must say it is a disappointment that it has not been signed. For example, the Drug Policy Board report says in the introduction,

> The strategy with regard to calls for a continuation and expansion of the cooperative atmosphere that has been established at the highest levels of the government and throughout the law enforcement communities of both the United States and Mexico.

To say that is an exaggeration or wishful thinking would be to understate how inaccurate, in this Senator's view, that strategy is. That is one of the problems I have with the strategy.

There is, to the best of my knowledge, very little cooperative atmosphere and there has been no expansion, and nothing you have said so far has dispelled my concern for the lack of a cooperative atmosphere between our Governments at the highest levels.

I mean, it seems as though the Mexicans are mired in their own domestic problems and it is making it impossible for them to move with with any dispatch to deal with these real problems.

Would you like to comment on it?

Mr. LAWN. Yes, sir, I would. I think that, indeed, progress has been slow, but there has been progress. There were four major seizures made in Mexico last year, major cocaine seizures, on which information was developed that was shared with the Mexican Government, who took immediate action.

In two cases, there were shipments by general aviation. The seizures totaled more than 1,100 kilos of cocaine. In the *Camarena* case, I think over 70 people are currently in jail in Mexico. So there is progress in that regard.

The CHAIRMAN. Well, you know, Jack, I see—and now I have two of my colleagues here and I am supposed to be questioning someone on the Contra aid. I am the number two guy on the Foreign Relations Committee, so in a moment after I finish I am going to step out and leave this to Senator DeConcini, and I will be back in half an hour, assuming they have at least that many questions, which I am sure they do.

When I get back, I would like to talk to you about the whole drug coordination question that goes beyond your shop and I want to know how you interrelate with some of the other pieces.

But it is not an exaggeration to suggest that the U.S. Senate and the Congress barely forestalled last session imposing sanctions on Mexico as a consequence of the difficulty we perceived and believed we were having with regard to Mexican cooperation, where we believe there is a great deal more rhetoric than action on the part of the Mexican Government.

Maybe because I wear two hats in this body, one on the Foreign Relations Committee and one as chairman of this committee, I am more sensitive to the foreign relations considerations than I otherwise would be.

Notwithstanding that, I think the message should be clearly understood and you are doing everything you can, in my view. But the message should be clearly understood that Mexican and United States relations are going to be negatively affected absent some matching of action with rhetoric.

All of the efforts by any of us in the Congress to forestall that from happening as a consequence of an understanding of the complexities of Mexico's situation will go for naught, in my view.

Maybe my colleagues may not agree with that, but I think we are in for trouble.

Mr. LAWN. Mr. Chairman, if I could mention one thing about the eradication program, for example, we have initiated Operation Vanguard, in which DEA agents, in participating in the eradication program, go out to verify that the areas sprayed were, in fact, sprayed and that they were, in fact, sprayed with herbicide.

The success rate of the eradication program, based upon special agent reports, is over 90 percent. So that part of the eradication program is effective. It certainly must be broadened because of the increased cultivation.

The CHAIRMAN. Well, you have answered my last question, which is do you believe that Mexico's performance justifies the President seeking sanctions against exemption. To make it clear, the Congress made it very clear in the Anti-Drug Abuse Act of 1986 that sanctions would be imposed unless there were improvements that could be certified by the President.

Based upon your statements this morning, I would assume that you believe that at this point the President is able to certify progress.

Mr. LAWN. Yes, sir. Based upon my judgment, I would say that the President is in a position to certify based upon our limited view of the enforcement efforts in Mexico.

The CHAIRMAN. For the record, it would be very helpful, if you could have your staff prepare for this committee a detailed outline as to why you think that is the case. If you could, with some specificity, state for us why you think there has been progress. It may be helpful to you and, if we are convinced, helpful to the President.

But there are rumblings up here, Jack, as you well know.

Mr. LAWN. Yes, sir.

The CHAIRMAN. It is not out of any desire to not help you and your agency.

[The aforementioned material was subsequently supplied for the record.]

The following items form the basis for my statement that improvements have been made during 1986 in Mexico's drug law enforcement program:

1. An increase, although small, in the number of hectares of poppy that were eradicated in 1986 versus 1985. The figures are 2,383 hectares versus 2,297 respectively.

2. A significant increase in marihuana eradication. In 1986, 2,973 hectares were eradicated as compared to 1,738 hectares in 1985.

3. Independent verification by U.S. personnel of Mexican eradication claims resulted in an above 90% verification rate.

4. Basic improvements in the eradication campaign from the ordering of spare parts for the aircraft to aerial surveys, forecast increased eradication results in 1987.

5. An increase in enforcement actions which resulted in the seizure by Mexican authorities of over two metric tons of cocaine.

6. Completion of negotiations of a mutual legal assistance treaty which is expected to be signed in 1987.

The CHAIRMAN. I am going to have to leave, as I said, to go to the Foreign Relations Committee, because there is a Contra aid hearing, for the next half hour or so.

I would ask my colleague, Senator DeConcini, with his permission, if I can turn the questioning at this point over to the real chairman, Senator Thurmond.

Senator THURMOND. You are very complimentary, Mr. Chairman.

The CHAIRMAN. I am so accustomed to working for you, Strom, it is hard to get out of the habit.

Senator THURMOND. Well, we have had a fine working relationship.

I am pleased to be here today for the continuation of the Judiciary Committee's hearings on the 1988 authorization bill for the Department of Justice. Today, the hearing will focus on the authorization for the Criminal Division and the Drug Enforcement Administration.

I am pleased that we have Mr. William Weld, Assistant Attorney General for the Criminal Division, and Mr. John Lawn, Administrator for the Drug Enforcement Administration, here today to present the Administration's views.

These two divisions are vital components of the Department of Justice and have become increasingly more important as a result of the drug legislation which was passed last Congress.

It is my understanding that the Department is requesting additional authority for fiscal year 1988 to better meet their responsi-

bilities in the areas of drugs, organized crime, white-collar crime, procurement fraud, and terrorism.

Now, Mr. Chairman, without objection, I will ask that that statement appear following the Chairman's statement in the beginning.

Senator DECONCINI [presiding]. Without objection.

Senator THURMOND. Now, I just have a couple of questions, Mr. Lawn. We are very pleased to have you with us. I want to commend you for the fine job you are doing.

Mr. LAWN. Thank you very much, Mr. Chairman.

Senator THURMOND. The administration has requested that undercover authority be made a permanent part of the United States Code rather than a part of the annual authorization process.

What problems have led the administration to make this request?

Mr. LAWN. I am sorry, Mr. Chairman. In the Drug Enforcement Administration, undercover efforts——

Senator THURMOND. Speak a little louder and speak into your machine.

Mr. LAWN. Undercover efforts in the Drug Enforcement Administration constitute about 90 percent of our enforcement efforts. It is part of the methodology of drug law enforcement, but I can only speak for DEA.

Certainly, I think Mr. Weld from the Department of Justice can give the overview for the Department. For DEA, undercover activity is critical and it would be most important for us to have the undercover authority codified.

Senator THURMOND. You think that would be very helpful to you?

Mr. LAWN. Yes, sir, I do.

Senator THURMOND. Mr. Lawn, do you believe the current authorization request is sufficient to meet the increased responsibilities of the DEA as a result of the enactment of the Anti-Drug Abuse Act of 1986?

Mr. LAWN. Yes, sir, I most certainly do. I am pleased and quite thankful over the fact that since 1981, your committee and this congress have been most supportive of increased funding for the Drug Enforcement Administration even at a time of fiscal constraint, and I think that the request for fiscal year 1988 will allow us to move forward.

Senator THURMOND. I just want to say I think you have one of the most responsible positions in government. There is nothing more detrimental to our young people than the use of drugs.

Anything we can do to keep drugs out of this country or keep drugs from being available to the public at large, and especially the youth of the land, is a great service to our Nation and its future. And, again, I commend you for the fine job you are doing.

Mr. LAWN. Thank you very much, Mr. Chairman.

Senator THURMOND. Thank you, Mr. Chairman.

Senator DECONCINI. Thank you, Mr. Chairman, and thank you, Mr. Lawn.

Let me go back to the discussion the chairman was having with you in relation to Mexico. Are you at liberty to tell the committee in open session how many agents you have in Mexico?

Mr. LAWN. Senator DeConcini, the number of personnel we have in Mexico varies from day to day.

Senator DECONCINI. Roughly, a general number.

Mr. LAWN. I would say on any given day we would have in excess of 30 special agents.

Senator DECONCINI. Thirty special agents, and they are located in how many places, if that is not classified?

Mr. LAWN. They are located in five offices in Mexico.

Senator DECONCINI. Five offices, and then you hire, obviously, some nationals in addition to that?

Mr. LAWN. Yes, sir.

Senator DECONCINI. And you indicate progress in Mexico's attempt to cope with this, which is very interesting to me, and you are going to supply us with the justification that you feel would permit the President to certify that that progress is substantial.

On a scale of one to ten, Mr. Lawn, comparing in 1985 Mexico's cooperation, where would you rate it just as an estimate?

Mr. LAWN. I would certainly say, Senator, that the level of cooperation has increased substantially. I mentioned the major seizures of cocaine. I mentioned the efforts on eradication, the successes we have seen with Operation Vanguard, with the verification of the spray operations in Mexico——

Senator DECONCINI. Excuse me. In 1985, where would you rate Mexico's cooperation or enforcement on drugs on, say, a scale of 1 to 10 or any scale you want to use.

Mr. LAWN. From 1984?

Senator DECONCINI. Yes. In 1985, where would you rate them? Would you rate them at a 5 or a 6 or a 9 or a 4?

Mr. LAWN. I would say that the level of cooperation in 1985 was wanting.

Senator DECONCINI. It was wanting. Would you rate at about average with Mexico? What I am interested in knowing is how much you think it has increased in 1986, so that the starting point has to be either 1984 or 1985.

Mr. LAWN. Wanting, I would say, would be less than average.

Senator DECONCINI. Less than average prior to 1986?

Mr. LAWN. Yes, sir. In 1985 and 1986, I know that it has——

Senator DECONCINI. It is above average in 1986, based on some of the things that you have told us?

Mr. LAWN. Yes, sir.

Senator DECONCINI. At the same time, is it your judgment that the problem of corruption within the Mexican judicial police and the political system—would you indicate that that has also increased in 1985 and 1986, with the information that you have?

Mr. LAWN. No, sir, I would not, based upon my judgment, believe that the corruption has increased in 1986 because the level of cooperation in 1986 improved substantially, and that information given to the attorney general's office in Mexico has resulted in substantial seizures and substantial enforcement action.

Senator DECONCINI. So I can conclude from that that you think the amount of corruption involved in the judicial police and the other law enforcements that are related to at least drug enforcement has declined in 1986 over, say, 1985 or 1984?

Mr. LAWN. Yes, sir. Corruption has declined because the Government of Mexico has arrested, I believe, over 700 persons which they allege were involved in corruptive activity.

Senator DECONCINI. Of those 700—I had not heard that number, but I had heard that it was several hundred—of the 700, do you know how many of them have been convicted?

Mr. LAWN. No, sir, I do not.

Senator DECONCINI. Is that available if you task your agents in Mexico to supply us with that data?

Mr. LAWN. We can certainly ask the attorney general's office in Mexico to furnish that information to us.

Senator DECONCINI. Were those 700, as far as you know, corruption-related with drugs or just general corruption charges?

Mr. LAWN. I do not know them all to be involved in narcotics activity.

Senator DECONCINI. In your judgment, do you think there are still other officials that are operating in Mexico who are either protected by the Government or unknown by the Government?

Mr. LAWN. In my judgment and based upon my experience, I think in every country in the world where we have drugs, we have corruption, including our own, and that would include the Government of Mexico.

Senator DECONCINI. Do you think, Mr. Lawn, that there are some still being protected by the Government of Mexico, and do you think that number is substantial, in your opinion?

Mr. LAWN. Again, I think the number is substantial in every country and I could not exclude Mexico.

Senator DECONCINI. But, overall, you believe that a genuine effort has been made to bring down the corruption rate, if you want to call it that, in Mexico, say, at least during 1986?

Mr. LAWN. Yes, sir, I do. That was a priority of President De La Madrid and we can see tangible results from that priority.

Senator DECONCINI. Have you been able to play a major role, you and the Justice Department, in informing and advising the Mexican Government and Attorney General Ramirez of the suspects and those that you have intelligence on who are involved in drug trafficking or other corruption who are Mexican officials?

Mr. LAWN. We have tried to assist the Government of Mexico and other countries in sharing information when we know of corruption and we hope that they are doing the same thing with us.

Senator DECONCINI. Have you shared that information with Mexico?

Mr. LAWN. Yes, sir, we have.

Senator DECONCINI. The intelligence information which you have available?

Mr. LAWN. Yes, sir, we have.

Senator DECONCINI. The list of some of the suspects that you have within your intelligence files and information on those suspects?

Mr. LAWN. We have furnished information that we have substantiated to the attorney general's office of Mexico.

Senator DECONCINI. What kind of numbers does that involve? Is it dozens or hundreds or a handful, or can you give me just a gen-

eral—without being specific, of course, what kind of numbers are we talking about?

Mr. LAWN. I am sorry, Senator, I do not know the numbers; certainly not hundreds.

Senator DECONCINI. Not hundreds?

Mr. LAWN. Not hundreds, no, sir, because the level of our work is targeting high-level traffickers internationally.

Senator DECONCINI. Are you satisfied when you turn over that information to the Mexican minister of justice or the attorney general that it is safe and secure and will not be subject to being disseminated to those who may abuse it or let it out?

Mr. LAWN. In any country where we share intelligence information, we run the risk of some information being compromised, but we do have a faith in our law enforcement counterparts, and that faith has been well placed as far as I can see.

Senator DECONCINI. You do not have any evidence of information that you have given them being leaked out and spoiling cases or alerting people that they may be a suspect of the Mexican Government?

Mr. LAWN. Leakage of information is always a problem. Whether the leak of information is on our side or someone else's side is always of great concern to us.

Senator DECONCINI. Do you have information that the Mexican authorities have violated that confidence with information that you have given them on suspects and other cases?

Mr. LAWN. I am not aware of any direct leak of information that we have provided to the attorney general's office.

Senator DECONCINI. In relation to the *Camarena* case, it seems from reports I have that it kind of comes and goes, wanes and waxes, as they say. Without violating, Mr. Lawn, any ongoing DEA or other investigations, could you tell us as candidly as you can about the cooperation of Mexico specifically as it relates to the *Camarena* murder case?

I am interested in knowing some of the individuals who are in jail or have been arrested, how long they might have been arrested before they were tried, those who have been arrested and never tried, and any that might have been acquitted.

Can you give us that, or maybe that is a little bit more than you have at your fingertips there? If you would like to supply it to us——

Mr. LAWN. It is more than I have at my fingertips, Senator. As you know, the judicial system in Mexico is different from the United States system and individuals are arrested and there is no Speedy Trial Act.

So we, in being told of the arrest and incarceration of citizens of Mexico in anticipating a trial, are judging the Mexican judicial system by our own.

Senator DECONCINI. Can you supply us with at least a broad outline and some specifics as to how many have been arrested, who they are, what positions they hold, when they were arrested, and whether or not they have been tried?

Mr. LAWN. We can certainly solicit that information from the attorney general's office in Mexico.

Senator DECONCINI. Would that be a great burden to you and take away from the effectiveness of your agents down there, or would that be done by personnel that would not be working on drug cases?

Mr. LAWN. No, sir. The cooperation with the Government of Mexico and the attorney general's office is such that that would not jeopardize our ongoing activities.

Senator DECONCINI. I would appreciate very much seeing that as soon as we could.

[The aforementioned was subsequently supplied for the record:]

Since the kidnapping, torture and murder of Special Agent Enrique S. Camarena on February 7, 1985 in Guadalajara, Mexico, the Mexican Government has arrested approximately 87 persons. Of these, approximately 64 remain incarcerated. The majority of the defendants are charged with drug trafficking, weapons violations, extortion, bribery, cultivation, kidnapping and murder of Special Agent Camarena. In addition, defendant Rafael Caro Quintero is charged with the January 30, 1985 murder of two other American citizens in Guadalajara.

The principal defendants in Mexican custody are Rafael Caro Quintero, Ernesto Fonseca Carillo, Samuel Razo and Rogelio Munoz. Since their arrests and the arrests of the other defendants, all have been taken before a Federal magistrate within the 72 hours following the arrests. Following their initial appearances and reading of charges, their cases were consigned to Federal judges for adjudication.

In Mexico, judicial matters are administered in accordance with the Napoleonic Code. There is not a public trial before a jury of peers as is employed in the judicial system in the United States. In Mexico, the adjudication of normal cases takes place usually within one year, but in special high profile cases, additional time is taken to complete all the processes. In the above cases, no definitive date has been set for the final step of the judicial proceedings.

Senator DECONCINI. Regarding the major new initiatives, Senator Biden and myself and, as chairman here, Senator Thurmond established a new Anti-Drug Abuse Act. A part of that anti-drug law that passed last year was the Bahamian Drug Interdiction Task Force.

This force is intended to build on the nearly 2-year effort that some of us and you in the administration have made to respond to the willingness of the Bahamian Government to open their doors and to permit some joint operations on the interdiction level.

The task force is off to a rather slow start from what I can gather, having visited there, but I am convinced that the idea is good; that turf battles of various agencies may be part of the problem.

One of the persistent turf battles that has been brought to my attention is between your agency and Customs over the respective roles you will play in the Customs air interdiction program.

For example, I understand that your agents for some reason are objecting to the placement of Bahamian police or defense force officers on Customs aircraft which would allow Customs to participate in hot pursuit and arrest in the Bahamian territories.

This seems to me an outstanding way to satisfy the modified Mansfield amendment and to make it work in a timely fashion.

Can you clarify, Mr. Lawn, any objections to this innovative, important approach, and what other problems, if any, that you and Customs or other agencies may be having as to this Bahamian Task Force?

Mr. LAWN. Yes, sir, I can certainly clarify. The information you have is inaccurate. The operation in the Bahamas is going very,

very well and the Commissioner of Customs himself was the one that suggested that the Coast Guard should take a more active role, that we should use Coast Guard helicopters in the operation in the Bahamas in lieu of Customs helicopters.

As far as our level of cooperation, I had dinner with the Commissioner of Customs last week and he told me that, in his view, the relationship between the U.S. Customs Service and the Drug Enforcement Administration has never been better.

Senator THURMOND. If you do not mind, speak a little bit louder and speak into your machine. It is a little difficult back here to hear you.

Mr. LAWN. Yes, sir. I am sorry, Mr. Chairman.

Senator DECONCINI. Mr. Lawn, does the DEA have any objection to having Bahamian defense force officers on Customs aircraft so that they can participate in hot pursuit and arrest in the Bahamian territories?

Mr. LAWN. The problem that exists, Senator, is that the U.S. Coast Guard did not see that the Customs Service had jurisdiction outside of the continental United States. That is where the problem existed; it did not exist between the U.S. Customs Service and the Drug Enforcement Administration.

That problem has been solved by a formal letter from Commissioner von Robb to Admiral Yost of the Coast Guard.

Senator DECONCINI. Does the DEA have any objection, Mr. Lawn, to having Bahamian defense force officers on Customs aircraft so that they can pursue hot pursuit in the territories of the Bahamas?

Mr. LAWN. The Drug Enforcement Administration agreed with the United States Customs Service when they had Bahamian troops on Customs helicopters operating out of Olmstead Air Force Base.

Our problem, and our mutual problem, was a coordination problem.

Senator DECONCINI. So I take it from that that you have no objection to having Bahamian defense forces on Customs aircraft in order to pursue drug airplanes and others in Bahamian territories, is that correct? You do not have any objection? The DEA has no objection?

Mr. LAWN. My objections would only be if there were a lack of communication.

Senator DECONCINI. A lack of communication between Customs and DEA as to what case they are working on?

Mr. LAWN. Yes, sir, because we cannot have Coast Guard helicopters, DEA helicopters, and Customs helicopters all chasing the same targets.

Senator DECONCINI. I could not agree more, but you tell me that has been resolved?

Mr. LAWN. Yes, sir, it has been resolved.

Senator DECONCINI. Based on that, then, you have no objection to having Bahamian defense force people on Customs aircraft?

Mr. LAWN. I believe I have responded, yes, sir.

Senator DECONCINI. Thank you, thank you.

Mr. Lawn, the Appropriations Committee at my request initiated a Southwest border drug initiative that began the process of bol-

stering staffing and equipment along the United States-Mexican border.

Now, the administration has joined the congressional effort to beef up law enforcement along the Southwest border in Operation Alliance, and my compliments to you and DEA for what I consider to be the very magnificent role and commitment that you have made in Operation Alliance, at least from the indications that I have of the personnel and equipment and assets that you have designated for that.

This is a multi-agency effort headed by INS and Customs. You mentioned DEA's participation in Operation Alliance on page 5 of your statement which was read before I came here, so I did not have a chance to know whether or not you modified it or not.

As I understand it, one of the elements of Alliance is that DEA has cross-designated both INS and Customs to conduct follow-up drug investigations after a seizure and/or arrest has been made.

I have long been a supporter of granting such authority to Customs or to other agencies when there is a cooperative effort, as you explained that there is now in the Bahamas, on a permanent basis in order to put more good enforcement investigators following up drug arrests.

Could you tell the committee about Operation Full Press, your interface with Customs and INS in Operation Alliance, and what your assessment is of the progress of the task force to date along the Southwest border? Give me the good or the bad news. I would just like a briefing on it, please.

Mr. LAWN. Senator, I chair the Operations Committee of Operation Alliance. We had an operations meeting as recently as one week ago. There is no bad news on Operation Alliance.

All of the agencies involved are cooperating. Operation Full Press to which you refer is a part of Operation Alliance where we have mobile teams that move across the entire span of the Southwest border.

The seizures have been extremely high. I do not have the actual amounts of seizure, but I can make that available to you. We have passed the hat of the chairmanship of that committee to the Immigration and Naturalization Service. Individuals are currently in place in El Paso.

We have a permanent staff of personnel from each of the agencies involved. Operation Alliance is proving to be a great success and cooperation among all agencies has been outstanding.

Senator DECONCINI. Are you satisfied with this—correct me—the cross-deputization? Is that occurring? Have you, in fact, cross-designated INS agents to do follow-up arrests and investigations?

Mr. LAWN. No, sir. We have cross-designated 2,800 Border Patrol officers.

Senator DECONCINI. Border Patrol.

Mr. LAWN. And we have cross-designated Customs officers. At this time, I am not familiar with our having cross-designated INS officers.

Senator DECONCINI. INS, yes, but you are——

Mr. LAWN. Yes, sir, we have trained and cross-designated over 2,700 officers of the Border Patrol.

Senator DECONCINI. Thank you. Quickly going back, and then I will finish up here for my colleagues so they can pursue—going back to the *Camarena* case, Caro Quintero, the suspected kidnaper of Camarena, is it correct that he has been in jail in Mexico for more than a year but has not been brought to trial? Do you know?

Mr. LAWN. Yes, sir, Caro Quintero certainly is in jail. My most recent information is that he continues to be incarcerated. Again, the procedure in Mexico is different from the United States and I do not believe there has been a formal trial, as we know it.

Senator DECONCINI. Do you have any information for the committee on when you think a trial will commence for Mr. Quintero?

Mr. LAWN. No, sir, I have no information as to any trial date.

Senator DECONCINI. Is it possible to make such an inquiry and advise this committee?

Mr. LAWN. I certainly will do that, Senator.

[The aforementioned was subsequently supplied for the record:]

In Mexico the judicial matters are administered in accordance with the Napoleonic code. There is not a public trial before a jury of peers as is employed in the judicial system in the United States.

We have been informed that relative to the trial of Mr. Caro Quintero that the collection of testimony on the prosecutive aspect of the trial has been completed. The collection of testimony on the defense aspect of the trial is now in process. When that action is completed, a tribunal of judges will then review all the information collected and render a decision.

There are no time restraints relating to these processes. However, when Mr. Quintero was arrested in 1985, Mexican officials stated that the normal adjudication process is two years. We, therefore, expect a completion to Mr. Quintero's case in 1987.

Senator DECONCINI. I appreciate it.

I do know that Armando Pavion Reyes, who was arrested and released, was later rearrested, convicted and is in jail, and I suspect that that is certainly some satisfaction from our Government's point of view that there is some movement by the Mexican Government.

Do you have any comments on Mr. Reyes?

Mr. LAWN. No, sir. In general, my satisfaction will come when all of the individuals involved in the abduction and murder of Kiki Camarena have been determined and prosecuted.

Senator DECONCINI. Mr. Lawn, what about Felix Gallardo? What is the effort now to try to apprehend him, and do we have an ongoing pursuit with the Mexicans, and independent of the Mexicans?

Mr. LAWN. Yes, sir. As in the case of the Camarena investigation, we are conducting in the United States an independent investigation as to the individuals involved in the abduction and murder of Kiki Camarena.

We also continue to collect and to disseminate information that we receive on Felix Gallardo. I have been told as recently as a week ago that the Mexican federal judicial police are designating or have designated a number of people to work solely on the investigation seeking the location and apprehension of Felix Gallardo.

Senator DECONCINI. Without disclosing, obviously, anything that would be detrimental, are you optimistic, are things at all improved, regarding Gallardo or are they the same as they were 6 months ago or 1 year ago?

Mr. LAWN. I can say that in my conversation with the attorney general of Mexico and his deputy, they are extremely optimistic, and as an optimist myself, I would like to share their optimism.

Senator DECONCINI. Do you believe that the attorney general or the Mexican Government knows where Mr. Gallardo is physically located?

Mr. LAWN. No, sir. I believe if they knew the location of Felix Gallardo, they would take action to apprehend him.

Senator DECONCINI. Even if it is in another country, of course.

Mr. LAWN. I beg your pardon, sir?

Senator DECONCINI. Even if it were in another country, of course.

Mr. LAWN. No, sir. I think if they knew that Mr. Gallardo were in another country, they would share that information so that Mr. Gallardo would be arrested by the host country.

Senator DECONCINI. Thank you, Mr. Lawn.

The Senator from New Hampshire.

Senator HUMPHREY. I have no questions.

Senator DECONCINI. Thank you, Mr. Lawn. Senator Biden, the chairman, has other questions which he will submit. He, as he indicated, is at the Foreign Relations Committee.

I have no further questions. I thank you for your patience and direct answers, and I appreciate your testimony here today.

Mr. LAWN. Thank you, Senator.

[The prepared statement follows:]

STATEMENT OF

JOHN C. LAWN
ADMINISTRATOR

DRUG ENFORCEMENT ADMINISTRATION
U.S. DEPARTMENT OF JUSTICE

I AM PLEASED TO HAVE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO DISCUSS THE 1988 BUDGET REQUEST OF THE DRUG ENFORCEMENT ADMINISTRATION.

THIS REQUEST REFLECTS THE ADMINISTRATION'S DEDICATION TO A DRUG FREE SOCIETY IN AMERICA. IN THIS YEAR'S STATE OF THE UNION MESSAGE, THE PRESIDENT CALLED FOR CONTINUING THE CRUSADE AGAINST DRUGS TO DEFEAT THE SCOURGE OF DRUG ABUSE, THE PRINCIPLE CAUSE OF CRIMINAL ACTIVITY. CONSISTENT WITH THE PRESIDENT'S COMMITMENT TO FISCAL RESPONSIBILITY, THE NATION'S WAR ON DRUGS REMAINS ONE OF THE ADMINISTRATION'S TOP PRIORITIES.

DEA HAS A STRATEGIC PLANNING PROCESS WHICH PROVIDES THE AGENCY WITH COMPREHENSIVE AND LONG-RANGE PLANS THAT SERVE AS THE FOUNDATION FOR OUR ANNUAL BUDGET REQUESTS. THE PLAN SYSTEMATICALLY IDENTIFIES AND PRIORITIZES INVESTIGATIVE, TECHNOLOGICAL, AND MANAGEMENT REQUIREMENTS AND RESOURCES WHICH ARE NECESSARY TO CONTINUE THE FIGHT AGAINST DRUG TRAFFICKING AND DRUG ABUSE.

BUDGET REQUEST

DEA'S BUDGET REQUEST FOR 1988 IS FOR $522 MILLION AND 5,730 PERMANENT POSITIONS, OF WHICH 2,891 ARE SPECIAL AGENTS. THIS REPRESENTS A NET INCREASE OF NEARLY $32 MILLION AND 50 POSITIONS ABOVE THE 1987 LEVEL. THE 1988 BUDGET INCLUDES PROGRAM INCREASES OF $24.6 MILLION AND 108 POSITIONS, INCLUDING 36 SPECIAL AGENTS. THESE INCREASES, HOWEVER, ARE PARTIALLY OFFSET BY REDUCTIONS FOR MANAGEMENT AND PRODUCTIVITY SAVINGS OF $911,000 AND 58 POSITIONS.

A BRIEF DESCRIPTION OF OUR PROPOSED PROGRAM INCREASES ARE AS FOLLOWS:

- A PROGRAM INCREASE OF 15 POSITIONS AND $12.4 MILLION TO PROVIDE THE NECESSARY RESOURCES FOR THE SECOND PHASE IN SECURING THROUGH TEMPEST-RATED CAPABILITY OF THE OFFICE AUTOMATION SYSTEM, AND THE NECESSARY SUPPORT STAFF.

- A PROGRAM INCREASE OF 26 POSITIONS AND $4.5 MILLION TO PROVIDE THE ADDITIONAL DEA AND CONTRACTED ADP TECHNICAL SUPPORT NECESSARY TO MEET FIELD AND HEADQUARTERS DATA ENTRY REQUIREMENTS.

- A PROGRAM INCREASE OF 30 POSITIONS (20 AGENTS) AND $2.0 MILLION TO ESTABLISH ASSET REMOVAL TEAMS IN THE MIAMI, CHICAGO, NEW YORK, HOUSTON, WASHINGTON, D.C. AND SAN FRANCISCO FIELD DIVISIONS, AND TO EXPAND THE TEAM IN SAN DIEGO. THESE TEAMS WILL ENABLE DEA TO MAKE MAXIMUM EFFECTIVE USE OF THE EXPANDED ASSET FORFEITURE LAWS.

- A PROGRAM INCREASE OF 9 POSITIONS (6 AGENTS) AND NEARLY $1 MILLION TO PROVIDE IMPROVED SECURITY OF STAFF AND FACILITIES.

- A PROGRAM INCREASE OF 28 POSITIONS (10 AGENTS) AND NEARLY $4 MILLION, (INCLUDING $2 MILLION FOR TECHNICAL EQUIPMENT), TO PROVIDE FOR SPECIAL AGENTS AND OTHER HIGHLY SKILLED TECHNICIANS TRAINED IN THE COVERT INSTALLATION AND ADAPTATION OF TECHNICAL EQUIPMENT TO ENHANCE DEA INVESTIGATIONS.

ACCOMPLISHMENTS

I WOULD LIKE TO TAKE THIS OPPORTUNITY TO THANK THE CONGRESS FOR ITS SUPPORT. THE PASSAGE OF THE 1983 OCDE AND 1985 DRUG INITIATIVES SUPPLEMENTALS, THE COMPREHENSIVE CRIME CONTROL ACT OF 1984, THE ANTI-DRUG ABUSE ACT OF 1986, AND NOW THE OMNIBUS DRUG SUPPLEMENTAL APPROPRIATION ACT OF 1987 HAVE AND WILL CONTINUE TO STRENGTHEN THE OVERALL U.S. GOVERNMENT AND DEA ENFORCEMENT CAPABILITIES. WE ARE NOW BEGINNING TO SEE RESULTS FROM OUR EFFORTS.

DEA HAS MADE DRAMATIC GAINS IN ARRESTS OF MAJOR VIOLATORS AND SEIZURES OF ASSETS. FOR EXAMPLE:

- THE ARREST OF VIOLATORS IN MAJOR CASES JUMPED MORE THAN 35 PERCENT BETWEEN 1985 AND 1986, FROM 9,441 TO 12,819. IN ALL, 18,746 DRUG-RELATED ARRESTS WERE MADE DURING THE YEAR.

- CONVICTIONS IN MAJOR CASES, INCREASED MORE THAN 22 PERCENT, FROM 6,221 TO 7,595, BETWEEN 1985 AND 1986.

- ASSETS SEIZED BY DEA DURING 1986 TOTALED MORE THAN $378 MILLION, OF WHICH MORE THAN 40 PERCENT WAS CURRENCY. THE VALUE OF ASSETS SEIZED BY DEA REPRESENTS AN INCREASE OF 53 PERCENT OVER 1985, WHEN ASSETS VALUED AT $246 MILLION WERE SEIZED. IN 1986, FOR THE FIRST TIME, THE VALUE OF SEIZED ASSETS EXCEEDED OUR APPROPRIATION.

DRUGS REMOVED IN THE UNITED STATES BY DEA INCREASED SUBSTANTIALLY DURING THE FISCAL YEAR:

- COCAINE SEIZED INCREASED BY 52.6 PERCENT.

- MARIJUANA AND HASHISH REMOVED JUMPED 11.4 PERCENT.

- DANGEROUS DRUGS, WHICH INCLUDE STIMULANTS, DEPRESSANTS AND HALLUCINOGENS, WERE MARKED BY A 76 PERCENT RISE IN REMOVALS.

- ALTHOUGH HEROIN SEIZURES HAVE SLIGHTLY DECLINED, THIS IS IN PART DUE TO INCREASED FOREIGN HEROIN SEIZURES, WHICH HAVE PREVENTED OPIATES FROM REACHING THIS COUNTRY.

- THE SEIZURE OF CLANDESTINE LABORATORIES PRODUCING ILLICIT DRUGS ALSO INCREASED DRAMATICALLY DURING 1986. OVER 440 LABORATORIES WERE SEIZED IN 1986, AN INCREASE OF NEARLY 35 PERCENT FROM THE PRIOR YEAR.

STRATEGY

IT IS NOW CLEAR THAT OUR EFFORTS ARE BECOMING BOTH MORE VISABLE, AND INDEED, MORE EFFECTIVE. WE ARE MAKING PROGRESS AND WE HAVE REASON TO BE OPTIMISTIC ABOUT THE FUTURE. HOWEVER, OUR EFFORTS IN REDUCING THE SUPPLY OF ILLICIT

DRUGS MUST CONTINUE TO INCLUDE MOBILIZING A WORLD-WIDE COMMITMENT TO INTERNATIONAL DRUG CONTROL EFFORTS.

ALTHOUGH STATISTICAL PERFORMANCE INDICATORS ILLUSTRATE THE GENERAL LEVEL OF SUCCESS DEA ENJOYED IN 1986, THE FOLLOWING PROVIDES SOME INSIGHT INTO OUR COOPERATIVE WORLD-WIDE EFFORTS:

- DURING 1986, DEA INITIATED OPERATION FULL PRESS, WHICH IS OUR PARTICIPATION IN MULTI-AGENCY OPERATION ALLIANCE. THE OVERALL OPERATION INCLUDES INVESTIGATIVE EFFORTS BY DEA, U.S. BORDER PATROL, AND THE CUSTOMS SERVICE. OPERATION ALLIANCE IS A COORDINATED EFFORT TO COMBAT DRUG SMUGGLING FROM MEXICO INTO THE UNITED STATES AND INCLUDES EFFORTS AGAINST HEROIN, COCAINE, AND MARIJUANA. AS PART OF THIS PROGRAM, 7,000 BORDER PATROL AGENTS HAVE BEEN DEPUTIZED AND GIVEN AUTHORITY TO INVESTIGATE SUSPECTED DRUG VIOLATORS. THIS INITIATIVE HAVE ALREADY RESULTED IN THE OPENING OF OVER 150 ADDITIONAL INVESTIGATIONS.

- DEA COORDINATED A JOINT BOLIVIAN/U.S. MILITARY/DEA ANTI-COCAINE OPERATION IN BOLIVIA, "OPERATION BLAST FURNACE." THE OPERATION WAS A SUCCESS. BETWEEN JULY 15, AND NOVEMBER 15, 1986, THE EFFORT ACCOUNTED FOR THE IMMOBILIZATION OF 22 COCAINE PROCESSING LABS, AND 24 STAGING AREAS, WHICH INCLUDED AIRSTRIPS, RANCHES, WAREHOUSES AND DORMITORIES. THESE LABORATORIES HAD THE CAPACITY TO PRODUCE 15,000 KILOGRAMS OF COCAINE HYDROCHLORIDE WEEKLY.

- OPERATION PISCES CONTINUED AS A LONG-TERM UNDERCOVER ENFORCEMENT EFFORT TARGETED AGAINST THE PRINCIPALS OF TWO MAJOR COLOMBIAN COCAINE ORGANIZATIONS. THE OPERATION FOCUSES ON THE MONETARY PROCEEDS AND LAUNDERING ACTIVITIES, AND IN EARLY 1986, RESULTED IN THE ARREST OF 34 INDIVIDUALS AND THE SEIZURE OF NEARLY TWO METRIC TONS OF COCAINE AND $4.5 MILLION IN U.S. CURRENCY.

- OPERATION PIPELINE CONTINUES AS A MECHANISM TO TRAIN, PRIMARILY, STATE AND LOCAL OFFICERS ON HOW TO INTERDICT DRUGS AND MONEY BEING TRANSPORTED ON THE NATION'S HIGHWAY SYSTEM. IN 1986, STATE, LOCAL AND U.S. BORDER PATROL OFFICERS PARTICIPATING IN THIS PROGRAM SEIZED 4,000 POUNDS OF COCAINE, 7,800 POUNDS OF MARIJUANA AND $8.7 MILLION CASH.

THESE EXAMPLES OF ENFORCEMENT OPERATIONS DEMONSTRATE THE DIVERSITY DEA'S EFFORTS, COOPERATION AT ALL LEVELS OF DRUG LAW ENFORCEMENT, AND THE ACHIEVEMENTS POSSIBLE FROM COORDINATED, COOPERATIVE EFFORTS.

ALSO, DURING 1986, A NEW DRUG PHENOMENON, KNOWN AS "CRACK" COCAINE BURST ONTO THE ILLICIT DRUG SCENE. CRACK IS AN INEXPENSIVE, HIGHLY ADDICTIVE FORM OF COCAINE THAT IS DESIGNED TO BE SMOKED. THE ATTRACTION OF CRACK IS ITS LOW PRICE AND INTENSE "HIGH;" HOWEVER, CRACK IS IS HIGHLY ADDICTIVE AND CAUSES DANGEROUS PHYSIOLOGICAL AND PSYCHOLOGICAL SIDE EFFECTS.

DEA PLANS TO ESTABLISH 24 "CRACK" COCAINE TASK FORCES AROUND THE COUNTRY IN THOSE CITIES THAT HAVE A DEMONSTRATED CRACK PROBLEM AND WHERE THERE IS THE MOST POTENTIAL FOR MEANINGFUL ENFORCEMENT RESULTS AGAINST THE TRAFFICKERS OF THIS NEW, HIGHLY DANGEROUS FORM OF COCAINE.

IN ADDITION TO ENFORCEMENT OPERATIONS, DEA ENCOURAGES AND SUPPORTS OTHER MULTILATERAL ACTIVITIES WHICH FOSTER INTERNATIONAL DRUG CONTROL. THE CREATION OF THE INTERNATIONAL DRUG ENFORCEMENT CONFERENCE (IDEC), FORMED IN 1983 AT DEA'S RECOMMENDATION HAS FACILITATED THE COOPERATION AND COMMUNICATION AMONG THE LATIN AMERICAN COUNTRIES AND THE UNITED STATES. UNTIL IDEC, THERE HAD BEEN NO NATION-TO-NATION, FACE-TO-FACE DIALOGUE BY NARCOTICS LAW ENFORCEMENT AGENCIES FROM ALL THESE COUNTRIES. AS A RESULT OF THIS UNION, CERTAIN LATIN AMERICAN COUNTRIES HAVE ASSUMED REGIONAL RESPONSIBILITIES AND HAVE TAKEN INITIATIVES IN NARCOTICS CONTROL EFFORTS.

THE FOURTH IDEC MEETING WAS HELD LAST JUNE WITH 13 LATIN AMERICAN NATIONS AND THE UNITED STATES PARTICIPATING, AND 5 EUROPEAN COUNTRIES OBSERVING. IDEC IV WAS THE MOST SUCCESSFUL TO DATE, BECAUSE ALL COUNTRIES DISPLAYED A GREATER WILLINGNESS TO WORK TOGETHER AND DEVELOP PRACTICAL SOLUTIONS TO OUR MUTUAL PROBLEMS.

THE CONFERENCE CONCLUDED WITH RESOLUTIONS IN SUPPORT OF REGIONAL COMMUNICATIONS AND INFORMATION SYSTEMS, DRUG ABUSE PREVENTION, REGIONAL AIRCRAFT INTERDICTION, AND REGIONAL CONTROL OF PRECURSOR CHEMICALS. PARTICIPANTS UNANIMOUSLY ENDORSED ERADICATION AS THE BEST ACTION FOR SOURCE COUNTRIES.

AS A RESULT OF IDEC, OVER THE PAST YEAR THERE HAS BEEN A SHIFT IN EMPHASIS FROM INFORMATION SHARING TO REGIONAL ENFORCEMENT STRATEGIES, SUCH AS THE CURRENT CAMPAIGN TO TARGET PILOTS, AIRCRAFT AND CLANDESTINE AIRSTRIPS INVOLVED IN DRUG TRAFFICKING. IN ADDITION, A REGIONAL COMMUNICATIONS AND INFORMATION SYSTEM HAS BEEN DEVELOPED AND IMPLEMENTED WITH THE STATE DEPARTMENT/INM PROVIDING SECURE VOICE COMMUNICATION AND RADIO TELETYPE. COMMUNICATIONS EQUIPMENT HAS BEEN INSTALLED IN COLOMBIA, PERU, ECUADOR, VENEZUELA, AND BOLIVIA. IDEC V IS SCHEDULED FOR NEXT MONTH IN SAO PAULO, BRAZIL.

WHILE DEA WILL CONTINUE ITS INTERNATIONAL ENFORCEMENT EFFORTS, WE BELIEVE THAT COOPERATION AMONG NATIONAL AND INTERNATIONAL OFFICIALS IN EDUCATION PROGRAMS IS A VITAL KEY TO OUR CONTINUED SUCCESS. DEA CONDUCTED A EUROPEAN DRUG PREVENTION SEMINAR IN BELGIUM THIS PAST MARCH, AND IS NOW IN THE PROCESS OF PREPARING FOR A SEMINAR TO BE HELD IN BONN, GERMANY NEXT MONTH. WE ANTICIPATE PARTICIPANTS FROM THE UNITED STATES DEPARTMENT OF DEFENSE; INTERNATIONAL SCHOOLS; FOREIGN MINISTRIES AND THE U.S. EMBASSY IN BONN. WE ARE ALSO PREPARING FOR AN EAST ASIA REGIONAL DRUG ABUSE PREVENTION SEMINAR TENTATIVELY SCHEDULED FOR THIS FALL.

FINALLY, I PARTICIPATED ACTIVELY WITH THE U.S. DELEGATION AT THE HEADS OF NARCOTIC LAW ENFORCEMENT AGENCIES (HONLEA) MEETING IN VIENNA WHERE WE ADDRESSED THE PROBLEM OF INTERNATIONAL DRUG ABUSE AND TRAFFICKING. AT THIS MEETING WE DEVELOPED RECOMMENDATIONS AND RESOLUTIONS REGARDING INTERNATIONAL DRUG CONTROL WHICH WILL BE PRESENTED TO THE FIRST UNITED NATIONS CONFERENCE ON DRUGS THIS SUMMER IN VIENNA.

<u>DRUG ABUSE PREVENTION ACTIVITIES</u>

AS YOU ARE WELL AWARE, MR. CHAIRMAN, I REGARD EDUCATION AND PREVENTION AS A FUNDAMENTAL AND ESSENTIAL COMPONENT OF OUR DRUG CONTROL STRATEGY. DEA IS SHARING INFORMATION ABOUT CURRENT DRUG ABUSE PREVENTION INITIATIVES WITH

FEDERAL AND STATE GOVERNMENTS, NATIONAL ASSOCIATIONS, INDEPENDENT ORGANIZATIONS, AND THE PRIVATE SECTOR. THIS INTERAGENCY CONTACT AND FORUM PROVIDES THE NECESSARY OPPORTUNITY TO DISCUSS CURRENT RESEARCH RESULTS AND TO IDENTIFY MAJOR TRENDS AND UNMET PREVENTION NEEDS, AS WELL AS PROMOTING COLLABORATION, IDENTIFICATION, AND SHARING OF RESOURCES.

MOST RECENTLY, DEA HAS CONSULTED WITH THE CENTER FOR DISEASE CONTROL REGARDING THEIR SCHOOL HEALTH EDUCATION AND TEACHER TRAINING PROGRAMS, AS WELL AS THEIR COMPENDIUM "SCHOOL HEALTH IN AMERICA." DEA HAS CONTINUING COORDINATION ACTIVITIES WITH THE NATIONAL INSTITUTE ON DRUG ABUSE (NIDA) AND THE DEPARTMENT OF EDUCATION. DEA PARTICIPATES IN MEETINGS, CONFERENCES, AND SEMINARS, AS WELL AS SHARES PUBLICATIONS AND OTHER MATERIALS. SOME EXAMPLES INCLUDE:

- NIDA PROVIDED DEA WITH TECHNICAL ASSISTANCE IN DEVELOPING A VIDEOTAPE ON PREVENTION ENTITLED "SAY NO TO DRUGS - IT'S YOUR DECISION."

- DEA DISSEMINATES NIDA AND DEPARTMENT OF EDUCATION PUBLICATIONS AND PAMPHLETS, AS WELL AS DEA MATERIALS, TO SCHOOLS, PARENT ORGANIZATIONS AND CIVIC GROUPS THROUGH A NETWORK OF DEA FIELD OFFICES.

- DEA PARTICIPATED IN THE NIDA/NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM (NIAAA) FIRST NATIONAL CONFERENCE ON ALCOHOL AND DRUG ABUSE PREVENTION.

- DEA PROVIDED ASSISTANCE TO THE ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATIONS'S RECENT NATIONAL STRATEGY CONFERENCE TO DEVELOP THE NEW ADAMHA OFFICE FOR SUBSTANCE ABUSE PREVENTION (OSAP).

DEA PLANS TO CONTINUE WORKING CLOSELY WITH ADAMHA AND THE DEPARTMENT OF EDUCATION TO IDENTIFY NEEDS, PRIORITIES FOR ACTION, GOALS AND OBJECTIVES, AND PROGRAM OPTIONS FOR THE FIELD OF DRUG ABUSE PREVENTION. MONTHLY COORDINATION MEETINGS WITH ADAMHA AND THE DEPARTMENT OF EDUCATION ARE BEING HELD.

In support of the President's drug prevention program, DEA also undertook several internal management initiatives in 1986. First, a demand reduction section was established in DEA Headquarters to provide a comprehensive coordinating role in agency-wide drug abuse prevention efforts. Second, a full-time agent was assigned in each of DEA's 19 domestic division offices to serve as a field coordinator for this program. Finally, DEA expanded its current drug abuse prevention program by enlisting the leadership and role model efforts of the Explorer Scout element of the Boy Scouts of America, and introduced the highly successful Sports Drug Awareness Program on the international scene by enlisting the efforts of international athletes and coaches.

1988 Department of Justice Appropriation Authorization

I would also like to bring to the Committee's attention the importance of the Department's 1988 Authorization Bill, which was introduced earlier this week by Chairman Biden and Senator Thurmond, at the request of the Department. No authorization bill for the Justice Department has been enacted by the Congress since 1980. We, in DEA, strongly believe that formal codification of these basic financial management authorities is long overdue.

I also want to make a specific request that you give favorable consideration to enacting the permanent undercover authorities set out in the Department of Justice authorization bill. As you know, these authorities do not expand or restrict our authority to undertake any particular undercover operation.

RATHER, THEY SERVE ONLY TO ENSURE THAT WE ARE IN SCRUPULOUS ACCORD WITH THE LAW WHEN COMPLYING WITH A PARTICULAR STATUTORY REQUIREMENT, SUCH AS MAKING PAYMENTS WITH A TREASURY CHECK, WOULD WHOLLY FRUSTRATE OUR INVESTIGATIVE EFFORTS. WE HAVE BEEN OPERATING UNDER ANNUAL UNDERCOVER AUTHORITIES AND THERE HAS BEEN NO SUGGESTION THAT WE HAVE ABUSED THAT AUTHORITY. THE LAST CONGRESS, IN THE ANTI-DRUG ABUSE ACT OF 1986, GAVE PERMANENT UNDERCOVER AUTHORITY TO THE CUSTOMS SERVICE.

CLOSING

IN CONCLUSION, WE HAVE COME A LONG WAY AND MORE CAN BE EXPECTED FROM THE NEW RESOURCES RECENTLY APPROPRIATED. WE HAVE EXPERIENCED MUCH SUCCESS, AS WELL AS SOME PROFOUND LOSES. I SEE THE DETERMINATION OF THE COUNTRY STRENGTHENED TO BRING DRUG ABUSE UNDER CONTROL; AND, SPEAKING FOR DEA, WE ARE PROUD TO BE PART OF THIS FIGHT.

THIS CONCLUDES MY STATEMENT, MR. CHAIRMAN. I SHALL BE PLEASED TO ANSWER ANY QUESTIONS YOU OR OTHER MEMBERS OF THE COMMITTEE MAY HAVE.

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Senator DECONCINI. We will now call Mr. Weld, the Assistant Attorney for the Criminal Division.

Mr. Weld, how are you today?

Mr. WELD. Good morning, Senator. I am fine.

Senator DECONCINI. We welcome you here. If you would like to summarize your statement, we will put the full statement in the record, and you may proceed.

STATEMENT OF WILLIAM F. WELD, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE

Mr. WELD. I have a full statement which I would like to submit for the record.

Senator DECONCINI. Without objection, it will appear in the record in full.

Mr. WELD. Very briefly by way of summary, Senator DeConcini, as the Senator is aware, the Criminal Division comprises approximately 400 lawyers, approximately 250 of whom are stationed in Washington, and the balance of 150 in the field in our 14 organized crime strike forces.

The Criminal Division attorneys prosecute some cases of national significance by themselves, some jointly with the 94 U.S. attorneys' offices located throughout the country, and in a great number of cases we offer legal advice and litigation support to the U.S. attorneys' offices.

1988 PROGRAM INCREASES

I will touch briefly on the few areas where we have requested an increase for fiscal 1988. We have requested an increase of 15 attorney positions in our Organized Crime Section, principally to respond to the recommendations made by the President's Commission on Organized Crime.

We plan a concerted effort to reach both labor racketeering and management racketeering, if you can call it that, throughout the country. We will also seek to apply non-traditional criminal remedies of forfeiture, debarment, and to use the civil RICO statute against both corrupt unions and business and management that has been infiltrated by the mob.

I think it is also very important that despite the recent successes that the Department of Justice has had on the leadership of traditional organized crime, the so-called La Cosa Nostra, we must keep the pressure up on the second tier of leadership in the LCN.

It is also vitally important that we not lose sight of the emerging organized criminal groups, whether Asian or other ethnic, who are there to take up any slack that may develop as a result of our successes against the LCN, particularly in the highly lucrative drug market.

We have requested an increase of three attorney positions in the Fraud Section to add to the roster of attorneys in the Defense Procurement Fraud Unit. The prosecution of white-collar crime, and defense procurement fraud, in particular, are special interests of mine, and if the Senators are interested in my priorities for the Division, we could get into that later.

We have requested an increase of three attorneys in the General Litigation and Legal Advice Section to work on terrorism matters, and five attorneys in the Office of International Affairs to work on requests for assistance from other countries.

As the Senator is doubtless aware, the business of criminal law enforcement has become very much internationalized in the last 5 or 6 years, and we can no longer afford to limit our focus to matters occurring within our own borders.

Those are the attorney increases that we have requested.

RECENT LEGISLATION

As Senator Biden was asking Mr. Lawn, I might mention, just by way of appreciation, about the implementation and application of the 1984 and 1986 statutes that have been enacted in the criminal justice area.

I have been in the Department since 1981 and I can say that the legislation that has come out of the Congress ever since, beginning with the arson amendment in 1982, has been very significant to us in the field. I was a U.S. attorney up in Boston from 1981 until last fall.

The crime bill of 1984, the pre-trial detention provisions, the forfeiture aspects, increased penalties, substantive offenses both in the gun area and the obscenity area, the Armed Career Criminal Act, the enactment of the Child Protection Act of 1984, were tremendously important to law enforcement.

Last year's 1986 drug bill was extremely important. The increase in the penalties up to mandatory life for drug offenses, the extension of the 15-year mandatory minimum gun offense to persons having narcotics convictions or any violent felony conviction, the money laundering statute, the expansion of the so-called schoolyard offenses, the prohibitions against use of juveniles in narcotics offenses, the asset forfeiture changes expanding the permissible uses of the asset forfeiture fund, the Operation Alliance funds which the Senator referred to a moment ago, even the Electronics Communications Act of 1986 which allows us to put a moving tap on an individual rather than having to place a wiretap only on a stationary telephone—which can be quickly mooted if the target changes his locale—is of enormous practical significance to law enforcement.

So I would say that the Congress has been really a great ally of the U.S. attorneys and the Criminal Division of the Department of Justice over the last 6 years and we are very appreciative of that.

1988 AUTHORIZATION BILL

The only other thing I would say, Senator DeConcini, is that it would be of great assistance to criminal law enforcement if our authorization bill were passed, and I say that for two reasons.

First, it would be of great assistance to us if there could be a merger or a reduction of the bright line between the field budget items and the Washington, DC, budget items.

Last year, I had the privilege of serving as chairman of the U.S. Attorneys Advisory Committee and did a certain amount of work with the Department in Washington on budgetary matters, and I

can recall being frustrated at the inability of the Department to have the flexibility to move funds from Washington to the field even if the need, say, in the narcotics area was in the field. I think that that would be very helpful to the Department to give it further flexibility than it now has between accounts.

The other item I would mention is that I believe the authorization bill proposes the addition of a new provision to title 28 which would permanently authorize undercover operations to be conducted by the Government without complying with the various statutes such as GSA acquisition regulations, and that type of thing, that are otherwise applicable to government operations.

Literal compliance with those laws, of course, could blow the cover off any undercover operation. As I understand the situation in the past, the authority for that type of undercover work has been included in the appropriations bill. However, when the bill lapses, then a defendant might at some point raise a question about the Government's authority to conduct that type of undercover activity. The temporary absence of this authority would be near fatal to the operations of an agency such as DEA. As Mr. Lawn just said, it is 90 percent of what he does.

I think it would be very helpful to have the authority of the FBI and other agencies cast into the general laws so that no question could be raised about that.

That is all that I have, Senator.

Senator DECONCINI. Thank you.

Mr. WELD. I would be happy to answer any questions.

Senator DECONCINI. Yes, I do have some, and a few I will submit. I have a series of questions I am interested in getting your response to, but it would take us some time this morning and, unfortunately, I have to leave soon, too, on the Attorney General's Commission on Pornography, and I would appreciate your response on what are you doing regarding a number of the recommendations that are in that commission's report.

Regarding the 1987 budget, which reflects an increase in the number of U.S. attorneys called for in the drug bill which we in Congress passed last year, the budget request for 1988 would increase the number of full-time equivalents for U.S. attorneys, I believe, by 500.

I have been urging the Department to request more prosecutors for some years and I am glad that we were able to include that in the drug bill and that now you have come forward with these additional requests.

We all know there is and should be a limit to the kind of cases that the U.S. attorney will take. We in Arizona and other border communities constantly are at odds with our local State attorneys, our county attorneys, as they are referred to, and the U.S. attorneys as to drug cases coming across in these quantities and amounts.

In my opinion, the limits in the past have let too many traffickers go unprosecuted, so I am glad to see the Department is welcoming these new attorneys. Can you tell us how the new U.S. attorney positions will be allocated, how many will be doing drug prosecutions, how many will be in the Southwest, and how many particularly will be in Arizona?

ADDITIONAL PROSECUTORS

Mr. WELD. I thought that there were 60 positions allocated for Operation Alliance to be spread among five or six U.S. attorney districts. I think that is exclusive of the 500 new ones, though, that the Senator refers to.

I am not aware that there is any sign hung around the head of each new assistant U.S. attorney that may be granted. I would expect, though, that the press of business would be such that a good percentage of those assistant U.S. attorney positions would have to be dedicated to narcotics work.

Senator DECONCINI. Can you advise us of how many you think there will be, or give me an estimate? Will it be 100, 200?

Mr. WELD. I would be speculating, and I am willing to speculate. I would say roughly half, maybe a little bit less than half, maybe a little bit more than half.

Senator DECONCINI. And how many of those, Mr. Weld, would it be your speculation would be in the Southwest?

Mr. WELD. It would be proportional. It would be up to the Deputy Attorney General and the Executive Office for U.S. Attorneys.

Senator DECONCINI. You do not know?

Mr. WELD. My hunch is it would be proportional to the size of the offices as part of the national complement.

Senator DECONCINI. Can you supply to us how many you think there will be for that office?

Mr. WELD. Certainly, Senator.

Senator DECONCINI. And, also, can you advise us how many of those new attorneys would be in Arizona, at least an estimate?

Mr. WELD. Yes, Senator. I may say I was out there not long ago with Mr. McNamee and with Bob Corbin, the Attorney General, and I am well aware of the dissatisfaction on the part of some of the local people in the area of Nogales about the inability of the Federal authorities to prosecute the great mass of drug cases that do arise there, so I am well aware of the problem.

Senator DECONCINI. Well, Mr. McNamee is doing an outstanding job, in my judgment, as did his predecessor, Mr. McDonald, and his predecessor, Mr. Hawkins. But in my judgment, and it is very parochial, I know, they are understaffed, having been a prosecutor myself.

It is not just the Nogales area; it is the Tucson-Pima County area, it is the Bisbee-Douglas-Cochise County area, and the Yuma County area, where it is very difficult to get the U.S. attorney to take many of these drug cases, and I realize why, having been there. You have to set some priorities.

But I would hope that you would take my questions here in the spirit of attempting to find some additional help, now that you have these assets so that you do not have to rob Peter to pay Paul, to see that some of them might be available for the Southwest, and certainly for the State of Arizona.

Mr. WELD. Senator, I will, and I may say that all of the U.S. attorneys and the management of the Department are meeting later this month and the venue that we have chosen is the State of Arizona.

Senator DECONCINI. Thank you very much. That is encouraging. We welcome you there.

I will submit the balance of my questions, Mr. Chairman.

The CHAIRMAN [presiding]. Thank you very much, Senator. In light of your importance in these matters, you are fully entitled to be as parochial as you would like.

Since I have already had a chance to ask questions, and I have more, I would yield to my colleague from Pennsylvania.

Senator SPECTER. Thank you very much, Mr. Chairman. This is the first time you have yielded to me since becoming Chairman.

The CHAIRMAN. Do not get accustomed to it. I do not want you to get carried away with it.

Senator SPECTER. I was about to say something nice about you.

The CHAIRMAN. No need.

Senator SPECTER. I will, anyway. It is nice to see you presiding. I have the benefit of many of your views from our long train rides, and notwithstanding any inclinations not to call on me, I am sure you will, but I have my rights anyway.

CAREER CRIMINAL LEGISLATION

Mr. Weld, I know that you have already referred briefly to the career criminal bill and to the amendments which expand the crimes for which someone may be prosecuted as a career criminal.

As you know, the bill was passed in 1984 which mandates a 15-year to life sentence for someone possessing a gun who has been convicted of three or more robberies or burglaries, and now that is expanded to include sale of drugs and other offenses.

My question to you is what plans does the Department have, and I hope they are very active ones, to really implement the career criminal bill because I think that it has great potential to moving at the core of those responsible for so much of violent crime in this country.

Mr. WELD. Senator, I am an unreconstructed fan of the Armed Career Criminal Act, both the 1984 original enactment and the 1986 amendment. When I was a U.S. attorney up in Boston between 1984 and 1986, we made frequent use of that Act.

As the Senator has stated, it is a 15-year mandatory minimum provision for someone who uses a gun or possesses a gun and has three priors for burglary or robbery. We found that there were a number of State cases where people might be picked up and they might have committed a very serious offense, say, murder or armed bank robbery, but there might be a flaw in the State prosecution of that offense, whereas the people might be absolutely cold on the record in terms of having the three priors and having the gun.

We found the statute very useful not only in terms of convicting the people and getting the 15 years, but also in inducing them to see the light in their discussions with the local district attorney as to whether or not they wanted to plead to serious State charges or face that 15-year mandatory minimum.

So even without the amendment, it was very useful. But the one problem I had had, and I wrote to Washington about it in 1985, I guess, in response to the Senator's letter to all the U.S. attorneys—I wrote back that it would be nice if——

Senator SPECTER. In response to my letter to U.S. attorneys?

Mr. WELD. Yes, Senator. I believe that you wrote to all the U.S. attorneys; at least you wrote to me.

Senator SPECTER. Yes, I did.

Mr. WELD. And in my response, I indicated that it would be most helpful if we could either amend the definition of violent offense in 18 U.S. Code Section 16 to include narcotics offenses or otherwise somehow pick up narcotics as a predicate for the imposition of the 15-year mandatory minimum.

As the Senator, being the principal sponsor, is aware, the bill was amended to expand the predicates beyond burglary and robbery to any violent offense, specifically defined to include narcotics, and I think that is just extremely helpful.

A plan that I have in mind in the short time given to me to address the 93 U.S. attorneys out in Tucson later this month is to thump the tub for the application of this statute both as a means of securing a meaningful sentence against habitual offenders and as a means to possibly helping State and local prosecutors over the rough spots.

If that statute is implemented properly by Federal authorities, it need not be seen as an incursion on the ability of the local prosecutors to go after the habitual criminals. It can be all gravy, as I see it, if applied in a spirit of cooperation between the Federal and the local prosecutors.

Senator SPECTER. Well, I am glad to hear, Mr. Weld, that you intend to push it with the U.S. attorneys.

What statistics do you maintain on the use of the armed career criminal bill?

Mr. WELD. I believe the Executive Office for U.S. Attorneys collected those statistics in 1985 or 1986. They do not report through me. I am not aware of what the numbers are.

I can tell you that in the District of Massachusetts we had seven prosecutions in 1985 and 1986 in addition to the cases where we were able to help out the local DA by having that provision be the sword of Damocles, as it were, in State plea bargain sessions with the defendant.

Senator SPECTER. I would be very interested if you would provide those statistics to us and if you would monitor the use made by the U.S. attorneys because with the amendments adding the new predicate offenses which we made, on your suggestion, among others, I know the committee would be very interested to see what use is made of the bill.

Mr. WELD. Senator, I will do that, and I will get you the statistics to date right away, and I think that monitoring would be a good way to see whether they pay attention when the tub gets thumped.

Senator SPECTER. You have testified that you think it is good for leverage for the local prosecutors, and that, of course, was one of the original purposes of the bill. When I was District Attorney of Philadelphia, if I had had an armed career criminal bill to refer, say, a few cases, five cases, among the 500 armed career criminals I had in Philadelphia, I think I might have induced a lot of guilty pleas out of the other 495, since they would not have known who was next to get a 15-year to life sentence.

Is there any statistical evidence available as to the frequency that local prosecutors are able to leverage the armed career criminal bill to get those increased sentences or increased pleas?

Mr. WELD. In my district in Massachusetts, there was about an equal number of cases where the State authorities were making use of the possible Federal referral in their plea negotiations as there were straight Federal prosecutions--five to seven.

Senator SPECTER. Mr. Weld, I would make a request to you, when you talk to the U.S. attorneys, if you would ask them to give you their views as to the leveraging effect of the armed career criminal bill.

I think it is a hard thing to gather any statistics on to know how many people are induced to plead guilty in a State court because of the possibility that they might be referred for a Federal prosecution with the tough sentence.

But if you could get some views on that, I think that would be very helpful. I know I am interested in it and I think the committee would be.

Mr. WELD. I know, Senator, that in my case—and I believe Mr. Giuliani in New York did the same thing, and maybe other U.S. attorneys—we sent a memo to all the district attorneys and the State authorities saying here is this statute; please keep us in mind; do not hesitate to invoke our name, as it were.

TERRORISM

Senator SPECTER. I would like to broach one more subject with you in the remaining time that I have left, and that is your reference to the increase in three attorney positions and one support position for implementing the expanded jurisdiction on terrorist laws.

In the bill which was enacted last August, we have made it a violation of U.S. Federal law to assault, maim or murder a U.S. citizen anywhere in the world, and we are looking forward to implementation there.

The case of *Curr* v. *Illinois,* which I am sure you are familiar with, is a rather surprising one where the Supreme Court of the United States many years ago upheld the bringing back of a suspect from Peru even though he was brought back without extradition and against his will. You might call it an abduction; you might even call it a kidnaping. But given the problems of international terrorism and the consideration of the resort to force, this is a minimal type of force.

Without divulging anything confidential, how do you see the implementation of these provisions to bring back terrorists to the United States for trial under circumstances where extradition may not be available?

Mr. WELD. Well, that is a sensitive area, Senator. As the Senator indicates, the Supreme Court precedents are fairly latitudinarian about, as I understand them, at least, not asking a lot of questions about what went on outside the country before the person was brought to the bar of American justice.

I would not want to say that the Department would commit itself to spirit every international terrorist defendant out of whatever country he or she may be found in. But, certainly, in recent cases

we have made every effort permissible under the law to see to it that people are brought back to the United States. There are ways and then there are ways.

There is the extradition route. Then, many countries have a wholly legal remedy known as expulsion under their own domestic laws. Under this remedy if the person has not settled into their country, they can simply kick them out without any extradition at all.

There have been cases in the past where people were diverted to the United States through, frankly, a form of artifice. I believe those pass muster under the Supreme Court precedents as well.

All I am saying, with the concessive tone in my voice, is that we do not want to get into a practice of having people brought here by a means that shocks the sense of fair play or that might take you up to the limits of what the Supreme Court precedents do allow. That is my only hesitation.

Senator SPECTER. Well, I understand what you are saying. I would suggest to you that we do bring it right up to the limits as to what the Supreme Court has allowed. The United States Navy fighters who forced down the Egyptian airliner after the hijacking of the *Achille Lauro* was a great exercise.

It is too bad we did not get Abbis Abdul at that time, but if we could locate Abbis Abdul or Abu Nidal or other of the major terrorists and have a kind of a surgical strike, we might accomplish a tremendous amount using far less force than was used in Libya or as we see United States military forces being aligned today in the Lebanon area. The opportunities for the use of far less force to deal with terrorism through the arrest route, I think, has great potential.

Mr. WELD. I think that we would try to look at the opportunities in each case as they arose.

EXTRADITION OF HAMDEI

Senator SPECTER. My final question is about the extradition of Hamdei. I had a chance to ask Attorney General Meese that very briefly at 12:01 yesterday when he left at 12:01 and 30 seconds.

Do you think we are going to get Hamdei back? Are we going to get Hamdei to the United States for trial?

Mr. WELD. I have no particular inside information there, Senator. My impression is that it is going to take some time, but we expect the extradition process to work. We have certainly signaled our intention in the strongest terms available to us that we very seriously want to try the man in the United States.

Senator SPECTER. Thank you, Mr. Weld. I appreciate your testimony and I urge you to use that career criminal bill all you can and I urge you to use the principles of Curr all you can.

Mr. WELD. Senator, I will.

Senator SPECTER. Thank you.

Mr. WELD. Thank you.

The CHAIRMAN. Thank you.

I had not planned on starting here, but it seems appropriate. You heard my discussion with Mr. Lawn concerning the extradition and law enforcement assistance treaties with foreign countries, some of

which are in limbo or nonexistent and, obviously, this is an important function of some attorneys within your division.

ATTORNEYS STATIONED OVERSEAS

Do you currently assign attorneys overseas to handle these negotiations and to deal as part of a team negotiating with the State Department with these countries?

Mr. WELD. We have one attorney from the Criminal Division who has been assigned to Rome, Italy, for the last several years, Senator. He is the only one I can think of who is on a standing basis overseas. Otherwise, we fly the people out to negotiate the MLATs, or extradition treaties, or else they come here.

The CHAIRMAN. In light of what is happening and not happening in Latin America with regard to extradition and treaties relating to enforcement assistance, would it be desirable, in your opinion, for the Criminal Division to have an assigned person or persons, such as they have in Italy, in other countries?

Mr. WELD. Well, there has been some discussion of that, Mr. Chairman. It makes some people over at the State Department a little nervous to think of the Criminal Division of the Justice Department having these satellite emissaries all over the world.

But we have discussed that with the State Department and it may be that that is the wave of the future. It is a little premature now, I think, to say.

The CHAIRMAN. Well, I hope you discuss it some more. As you know, the State Department is reluctant to change anything. I know from 10 years of experience of trying to prod them to acknowledge that they are part of the solution to the drug problem, part of the solution to international trafficking.

I would encourage you, and to the extent that I can be helpful in the other committee on which I serve, I will be delighted to help.

ANTI-DRUG ABUSE ACT

Shifting gears a moment, the Anti-Drug Abuse Act of 1986 provided many new and often sophisticated tools, including the money laundering statute.

Why is the Narcotics Section not targeted for an increase in attorneys positions to help implement this statute?

Mr. WELD. I think the Narcotics Section will develop the white paper and the monograph on the Money Laundering Act to get the possible learning out into the field. Narcotics is an area where the U.S. attorneys have a great number of personnel out there and they handle the vast bulk of the narcotics prosecutions.

The mission of that section is to conduct prototype litigation, if you will, offer support to the U.S. attorneys in the field, and to work on getting our best learning reduced to paper and circulated to the U.S. attorneys.

They came out with an extremely helpful analysis of the Anti-Drug Abuse Act within 2 weeks after its passage, I think, and are working on the money laundering one now, which is more complex because there is a lot of new law.

MONEY LAUNDERING

The CHAIRMAN. Well, I was a little bit surprised to see that money laundering was not mentioned as a priority anywhere in the Department's budget, but maybe what you are saying to me is that you are gearing up.

Mr. WELD. Oh, yes, Senator. I do not know if you recall; I testified last year before this committee with great enthusiasm in support of the money laundering bill.

The CHAIRMAN. I know you did. That is why I am asking you because it is not mentioned in the budget.

Mr. WELD. My personal priorities, Senator, are—as a matter of preference, my personal preference priorities would be in the white-collar area and public corruption and program fraud, bribery, that type of thing, and you will see a lot of use of the new money laundering statute, which was passed, at least in part, to reverse a case that I lost in the First Circuit in 1985.

The CHAIRMAN. That is why I wrote the money laundering bill, as you will recall. But, again, your priorities are not reflected in the budget message.

ASSET FORFEITURE FUND

Given the innumerable past problems with the administration of the forfeiture laws that have been documented by the GAO and the Office of Management and Budget, what changes have been made to ensure that the increase you are requesting—will be spent effectively. Last year, the Department of Justice used $42.8 million from the asset forfeiture fund to cover expenses for Federal law enforcement agencies. This year, the Department has requested $112 million from the fund, nearly a 300-percent increase.

What has been done to ensure that this money is spent more effectively? There has been great criticism, as you know, of the administration of the forfeiture laws?

Mr. WELD. Well, as you know, Senator, the 1986 law opened up the throttle a little bit in terms of permitted expenditures so that we can now use the asset forfeiture fund assets for program-related activities, not simply in support of an individual case expenditure. We can use it for retrofitting vehicles and conveyances to be used in support of drug enforcement.

I do not think any of that $112 million, if it is directed toward that type of expenditure, is going to be wasted. It is not that we are spending it on new things; it is that we have more authority to—we are, but it is because we did not have the authority before and now we are permitted to do so.

The CHAIRMAN. Well, it would be helpful for the committee if you would task one of your people to give us an analysis slightly more than what was in the budget message as to how you are going to, with these additional expenditures.

Mr. WELD. Just so I am clear, Mr. Chairman, you are talking about the part that was used for expenses of the program, as it were, rather than the part that is going to the State and locals?

The CHAIRMAN. Yes, that is correct.

COORDINATING ENTITIES

I have been concerned with the issue of coordination for many years, and I think the Department is now specializing in coordinating entities to satisfy a number of the concerns I have about coordination. But as I read the list, I get a little concerned.

Let me just read off to you a few of the coordinating agencies that presently exist. There are 13 organized crime and drug enforcement task forces, 26 regional organized crime task forces, the Attorney General's U.S. Attorney Advisory Group, the National Planning Council on Organized Crime, 94 law enforcement coordinating committees in the judicial districts, the working group assembled to look at the recommendations of the Organized Crime Commission, and the Drug Enforcement Working Group of the newly reconstituted Drug Policy Board.

Now, you can see this is a rather, I would characterize it, cumbersome, but others at least would have to characterize it as extensive, mechanism to formulate policy and establish priorities between the Criminal Division and U.S. attorneys, all of which are part of that process.

My question gets back to who really sets the priorities in the Criminal Division. For example, if money laundering is important, who decides what priority it receives? Is it you, or do the U.S. attorneys in the field who decide?

Mr. WELD. Well, I would decide them within the Criminal Division, Mr. Chairman.

The CHAIRMAN. Does a note go out to the U.S. attorneys and say this is it?

Mr. WELD. Well, that is why I say within the Criminal Division.

The CHAIRMAN. Yes.

Mr. WELD. The Department of Justice, at least as I understand it, compared to other departments, is fairly decentralized. Those U.S. attorneys out there have a significant amount of authority.

I can send a telex out and hope that 40 of the 93 U.S. attorneys are going to, you know——

The CHAIRMAN. Pay attention?

Mr. WELD [continuing]. Take action as a result. It is not that they do not pay attention, I do not think, having been on the other side for 5 years, but just that there is a certain amount of local priority and local option out there, which is why Attorney General Smith back in 1981 asked each of the U.S. attorneys to develop a local priority plan.

So Washington and this administration, at least, has made the judgment that they want those priorities to be set in large measure by the U.S. attorneys in each district.

The CHAIRMAN. Well, I am running out of time because there is only 5 minutes left in the vote. Rather than keep you, what I will do is submit questions to you for the record.

I will leave the record open for questions to be submitted in writing by my colleagues who may not have been able to be here.

Thank you very much for your cooperation.

Mr. WELD. Thank you, Mr. Chairman.

[The statement and response to questions follow:]

Department of Justice

STATEMENT

OF

WILLIAM F. WELD
ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

BEFORE

THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

CONCERNING

THE DEPARTMENT OF JUSTICE AUTHORIZATION

ON

FEBRUARY 5, 1987

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to be here with you today to discuss the work of the Criminal Division and our 1988 budget request. For 1986, the Division is seeking a budget of $56,151,000 and 814 positions. Included in this request are increases for organized crime prosecutions, defense procurement fraud investigations and prosecutions, legal advice and litigation relative to terrorism and international law enforcement coordination.

The Criminal Division was first established as a formal organizational entity within the Department of Justice in 1933, and it has existed since then with a few alterations in its jurisdiction. The Criminal Division is responsible for formulating policies pertaining to the enforcement of over 900 federal criminal statutes, for coordinating the implementation of those policies, and for conducting, either separately or in conjunction with U.S. Attorneys, the investigation and prosecution of certain offenses. In addition, the Criminal Division also has jurisdiction over a limited number of civil cases that are incidental to federal criminal law enforcement activities.

The Criminal Division conducts its operations for the most part in Washington, D.C. However, out of a total of 769 currently authorized positions, 225 staff positions are stationed outside of Washington. These positions are primarily assigned to the 14 Organized Crime Strike Forces that are located in 25 cities where they coordinate investigations and conduct prosecutions that are aimed at suppressing the activities of organized crime. In addition to the Strike Force attorneys, other Criminal

Division attorneys who are located in Washington frequently initiate investigations and prosecutions in the field, or assist the U.S. Attorneys in their districts in the conduct of criminal prosecutions.

In the past year, the Criminal Division has been involved either directly or in conjunction with the 93 U.S. Attorneys, in a number of successful prosecutions including the conviction of a sitting federal judge for perjury, the convictions of important mob leaders in Boston, New York, Cleveland, Chicago, and Kansas City for racketeering offenses, the conviction of five corporations, eight corporate officials, and twelve government employees for giving or taking bribes to influence procurement decisions at the Defense Industrial Supply Center in Philadelphia, and the convictions of all defendants in the Walker, Miller, Pelton and Pollard espionage cases. In addition to these important prosecutorial successes, the Division secured the extraditions of John Demjanjuk to Israel and Andrija Artukovic to Yugoslavia. Both of these individuals were sought in connection with crimes they are alleged to have committed on behalf of Nazi Germany during World War II.

One of the important activities of the Criminal Division is the development of more effective cooperation with the law enforcement agencies of foreign governments. In the past two years, the Criminal Division responded to 361 extradition requests from foreign governments and referred 540 U.S. extradition requests to foreign governments; it submitted 406 requests for mutual legal assistance and responded to 395 such requests; and it arranged for the transfer of 100 U.S. prisoners to foreign custody while 88 U.S. nationals held in prisons abroad were transferred to U.S. custody.

Another major focus of the Criminal Division in recent years has been to employ civil and criminal forfeiture proceedings to deprive criminals of the proceeds of their crimes. To support this initiative, the Division established the Office of Asset Forfeiture in July 1983. Since then, the attorneys assigned to that Office have participated in a number of significant forfeiture cases, and they have provided legal advice and training to U.S. Attorneys, Department attorneys and state and local law enforcement agents on complex forfeiture issues. In 1986 the Asset Forfeiture Office decided 398 petitions for remission or mitigation of judicial forfeitures. During the same time period, the office authorized 70 equitable sharing requests involving assets valued at $24 million. At present, the office has an inventory of about 470 equitable sharing requests submitted by various law enforcement agencies seeking to share in the proceeds of judicial forfeitures. We consider the concept of equitable sharing to be a successful law enforcement initiative whereby we are regularly financing federal, state and local law enforcement efforts at no additional cost to the taxpayers but at a significant cost to the drug traffickers.

Another enforcement program initiated by the Criminal Division, at the direction of the Attorney General, is aimed at disrupting organized criminal enterprises that are engaged in the large scale production and distribution of criminally obscene material in the United States and at obtaining convictions of those individuals who are responsible for child pornography in violation of inter alia the Child Protection Act of 1984. The battle against obscenity and child pornography is being waged by two recently formed entities within the Criminal Division. The Center for Obscenity and Child Pornography Prosecution operates to gather legal opinions, expert

testimony, and other relevant information and to disseminate such information to federal, state and local law enforcement officials. The second entity, the Federal Obscenity Task Force, consists of experienced prosecutors who are targeting the major offenders of the applicable federal criminal obscenity and child pornography statutes and coordinating the investigation of multi-district and international cases.

Turning to the Division's resource request for 1988, the proposed budget will provide for an additional 45 positions and an increase of 11,158,000 over the currently authorized levels for 1987. The funding increase includes $2,428,000 in supplemental funds requested for 1987, $4,261,000 in adjustments to the base requested for 1988, and $4,469,000 in program increases to 1988.

Included in our overall budget request we are seeking fifteen attorney positions and nine support positions at a total cost of $2,312,000* to respond to the recommendations of the President's Commission on Organized Crime. According to the Commission, the cost of organized criminal activities to the economy in lost output amounts to more than 18 billion dollars per year, and the government alone loses some 6.5 billion dollars in tax revenues. Nationwide, over 300,000 persons are affiliated with the organized crime, and even this number is exceeded by the unemployment caused by mob activities. The Commission estimated that 414,000 Americans are out

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* The funding for each program increase provides not only for the compensation and benefits of the additional personnel but also for travel expenses, space assignments, equipment rentals, litigation expenses, automated litigation support and other costs relative to the program increase described in the budget submission.

out of work because of organized crime. Correcting this situation is becoming more and more difficult because of the increasing penetration of legitimate businesses by organized crime and because of the growing involvement by new criminal syndicates in sophisticated criminal enterprises. The Commission recommended widespread application of all the remedies available to the government under the Racketeer Influenced and Corrupt Organization (RICO) laws, more extensive efforts to decertify unions corrupted by criminal elements, and the targeting of certain industries that have been infiltrated by organized crime. In addition, the Commission recommended increased investigative and prosecutorial attention to the emerging organized crime groups other than the traditional La Cosa Nostra families.

For the Fraud Section of the Criminal Division, an increase of three attorney positions, three support positions, and $708,000 is requested to assist in the investigation and prosecution of defense procurement fraud cases. Since its creation in 1982, the Division's Defense Procurement Fraud Unit has focused on four major abuses committed by Defense contractors; (1) mischarging of labor costs, (2) conversion of classified and proprietary information to unauthorized uses, (3) substitution of substandard or defective materials in products furnished to the Defense establishment, and (4) attempts to influence procurement decisions through bribery or extortion. During 1986, the Defense Procurement Fraud Unit screened a total of 441 matters that were referred to it. Based either on the information presented at the screening, or after further investigation as directed by the Unit, 166 matters were referred to the U.S. Attorneys for prosecution. The Criminal Division itself assumed direct prosecutorial responsibility for 35 complex investigations. During fiscal year 1986, indictments or

informations were returned against 21 individuals and 3 corporations by the Defense Procurement Fraud Unit of the Criminal Division. These cases are very labor intensive, requiring thousands of work hours to sort through millions of pieces of documentation and assemble the evidence necessary to prosecute the defendants effectively. As with most successful programs, success breeds more work and the workload now confronting the Defense Procurement Fraud Unit exceeds its current capacity to investigate, review, and prosecute viable cases. Accordingly, additional positions and related funding have been included in the Division's 1988 budget request.

An increase of three attorney positions and one support position and $458,000 in related expenses are requested to assist in responding to terrorist related matters and to fully implement our expanded jurisdiction in the terrorism field as a result of new statutes passed by the last Congress which permit prosecutions to be conducted in the United States for terrorist acts committed abroad. The additional resources included in this request are required to provide legal advice to representatives and policymakers responsible for responding to international terrorist incidents. The additional staff will assist in obtaining evidence from foreign jurisdictions, conducting grand jury inquiries and instituting criminal prosecutions against terrorist offenders. The additional staff will also be responsible for preparing contingency plans for dealing with terrorist incidents in foreign jurisdictions. The Criminal Division will also produce training courses and instructional materials for government prosecutors who may be called upon to investigate and prosecute terrorist related cases; furnish advice to the Congress on any new legislation concerning terrorism; and, coordinate and oversee any multi-district terrorism cases that may arise.

An increase of five attorney positions, six support positions, and $648,000 is requested to augment the Division's capacity to provide timely advice and assistance to prosecutors in the United States seeking assistance from foreign governments. In recent years the Department of Justice has applied substantial resources to the negotiation of several new Mutual Legal Assistance Treaties. Through these treaties, U.S. prosecutors (local, state and federal) can now obtain crucial evidence in a foreign jurisdiction. For each request, the U.S. government must submit a detailed request including an explanation of the facts of the case and the statutes under which the investigation is being coordinated, together with an explanation of how the evidence is to be used and the procedures to be followed in the other country to assure its admissibility in U.S. courts. Each request requires extensive coordination with U.S. prosecutors and investigators as well as with foreign authorities. Recent treaties concluded with Canada, the Caymans, the Bahamas and Jamaica are expected to be particularly valuable to U.S. prosecutors. The Criminal Division expects that the number of requests for foreign local assistance will double from 250 requests forwarded to foreign jurisdictions in 1986 to 500 requests in 1988.

Finally, the Criminal Division requests an increase of $343,000 for three other program areas: Narcotic and Dangerous Drug Prosecution; Public Integrity; and Internal Security. These increases consist of $34,000 for overtime and incentive awards, $44,000 for employee relocation expenses, $151,000 for travel expenses, and $114,000 for automated litigation support. The relocation funds will assist in the recruitment of experienced federal prosecutors who must relocate to the Criminal Division's headquarters in Washington, D.C. The travel funds will enable the Division to participate, as required, in criminal proceedings in all instances when the U.S. Attorney

does not possess sufficient staff or specialized expertise, when referring the prosecution to the U.S. Attorney is impractical because of the complexity of the case, or when a prosecution requires intervention by national authorities in order to coordinate aspects of the case that extend beyond a single judicial district. The increase for automated litigation support will enable the Division to apply appropriate technology to indexing and analyzing transcripts and other documents essential to the preparation of Grand Jury and trial presentations.

I would like to thank the Committee for the opportunity to present these remarks, and will be pleased to try to answer any questions the Chairman or Members may have.

The CHAIRMAN. The committee is adjourned.

QUESTIONS FROM SENATOR GRASSLEY

QUESTION 1:

When you were confirmed as Assistant Attorney General for the Criminal Division, you indicated that one of your goals would be to evaluate defense fraud law enforcement and take steps to bring about more effective results in this area. Have you studied or evaluated enforcement in this area?

If so, what have you learned? and what steps, if any, are you implementing to produce more effective results?

DEPARTMENT OF JUSTICE'S ACCOMPLISHMENT IN DEFENSE PROCUREMENT FRAUD.

A. Prosecutions of major contractors

I have spent time looking at our defense fraud law enforcement efforts and am pleased at the various accomplishments of the Department of Justice in this area. This effort has resulted in the pending prosecution of General Dynamics Corporation and the conviction of the following major defense contractors: GTE Government Systems Corporation, General Electric Company, Gould Defense Systems, Inc., Litton Systems, Inc., Martin Marietta Corporation, National Semiconductor Corporation, Rockcor Inc. (a subsidiary of Olin Corporation), Rockwell International Corporation, and Sperry Corporation. The successful prosecution of so many major contractors in one area is unprecedented in white collar law enforcement.

Our efforts, of course, have not been just limited to major defense contractors but have resulted in numerous convictions of small and medium size contractors and culpable individuals. For example, employees of the following top 100 defense contractors or their subsidiaries were prosecuted for fraud during fiscal year 1986: General Dynamics Corporation, Northrop Corporation Westinghouse Electric Corporation, Emerson Electric Company, Gould, Inc. and Hughes Aircraft Company.

During the same fiscal year, the prosecutions of the following top 100 contractors took place: (1) Gould Defense Systems, Inc. pleaded guilty on October 3, 1985 to making false statements in connection with $165,000 of criminal labor mischarging; (2) Rockwell International Corporation pleaded guilty on October 30, 1985 to criminal labor mischarging and agreed to pay the United States $1 million as restitution; (3) General Dynamics Corporation and four individuals were indicted on December 2, 1985 for $7.5 million of criminal mischarging regarding the Division Air Defense Gun System prototype contract in a still pending case; (4) Litton Systems, Inc. and two individuals were indicted on July 15, 1986 for defrauding the Department of Defense (DOD) of $6.3 million in connection with the bidding and award of 45 prime and subcontracts by the DOD. The corporation and both defendants subsequently pleaded guilty. Additionally, on February 17, 1987, Martin Marietta Corporation pleaded guilty to false statements in connection with rebates from government-sponsored travel.

B. Change in behavior of defense contractors.

The success of our efforts is not measured only in the prosecutions brought by the Department of Justice. It can also be measured by the large number of major defense contractors that have significantly intensified their

self-governance efforts to ensure compliance with laws, regulations, and high standards of ethical business conduct. Thirty-four contractors have signed the Defense Industry Initiatives on Business Ethics and Conduct issued on June 9, 1986. In addition, a number of major defense contractors have adopted a policy to disclose voluntarily problems affecting their corporate contractual relationships with the Department of Defense (DOD). This major change in corporate behavior would not have occurred but for the Department of Justice's success in this important area of law enforcement.

DEFENSE PROCUREMENT FRAUD UNIT

A. Unit's Responsibilities

I have also learned of the very substantial accomplishments of the Defense Procurement Fraud Unit (Unit). The Unit was formed in the fall of 1982 as an integral part of the Criminal Division's Fraud Section. The Unit brings together seven prosecutors, three attorneys from the Civil Division's Fraud Section, one investigator from the FBI, and five attorneys, four investigators and an auditor from the DOD and allows them to concentrate solely on defense procurement fraud cases.

(1) It establishes and coordinates policy and enforcement priorities in the defense procurement fraud area.

(2) It screens defense procurement fraud cases early in the investigation to identify and focus resources on those with important prosecutorial potential.

(3) It directly investigates and prosecutes some of the most nationally significant cases.

(4) It provides advice, guidance and staff support to United States Attorney offices in cases that these offices investigate and prosecute.

B. General Accounting Office review of Unit's screening responsibilities.

The Unit, in most instances, screens a case at a very early stage when little, if any, investigation has been done, far in advance of the point at which prosecutors usually become involved. It is only after substantial investigation has been undertaken that prosecutors can determine actual prosecutorial merit. One of the purposes of screening is to monitor and direct investigations in order to make prosecutorial decisions at every important investigative point. Our purpose in requiring cases be sent to the Unit at the earliest stage is to maximize the opportunity for favorable development.

A recent GAO Fact Sheet focused on the screening actions of the Unit in 486 matters from October 1982 through December 1985. The fact sheet demonstrates that the Unit is concentrating on the more complex investigative allegations:

(1) 156 of the 486 matters screened by the Unit involved the top 100 Department of Defense contractors.

(2) 125 of the 486 matters were accepted by the Unit as having prosecutorial potential, and 136 were sent to United States Attorney offices if the investigation developed evidence to substantiate the allegation.

(3) 64 of the 261 matters accepted by the Unit or sent to the United States Attorney offices resulted in convictions.

(4) 54 (43%) of the 125 cases accepted by the Unit involved the top 100 defense contractors.

(5) 47 (38%) of the 125 cases accepted by the Unit contained initial allegations of a loss in excess of $1 million.

(6) 91 (73%) of the 125 cases accepted by the Unit were accounting fraud cases.

We believe the GAO Fact Sheet confirms our view that the Department's efforts are a success.

C. Unit's prosecutorial efforts.

I have also evaluated the Unit's prosecutorial efforts. The Department of Justice never intended that the Unit be the sole prosecutorial source for defense procurement fraud cases. It was always intended that the Unit would handle only a portion of the prosecutable cases once the initial allegations were subject to a full investigation. It would be a mistake to set up a centralized Department Of Justice unit which would have exclusive prosecutorial authority. Such a step would be totally inconsistent with our other criminal enforcement efforts, be very expensive, and lose the talent and creativity existing in the United States Attorney offices.

The Unit's prosecutorial efforts alone through February 1987 have resulted in the convictions of 54 individuals and 13 corporations, criminal fines of $1.2 million and related civil recoveries of $7.3 million. Moreover, the criminal fines and civil recoveries do not reflect enormous administrative recoveries and voluntary adjustments by defense contractors after the criminal investigations had commenced. In one investigation, now closed, the initial allegation concerned $1.2 million in overhead charges. DOD advised us that after the investigation commenced, the contractor gave DOD credits and payments of $28.3 million with additional savings of $12.7 million projected from reduced overhead charges. In another closed investigation, $16 million was removed from costs on open proposals involving the issue that was the subject of the investigation.

Unit and Fraud Section attorneys prosecuted the following top 100 defense contractors: GTE Government Systems Corporation, General Dynamics Corporation, Gould Defense Systems, Inc., and Sperry Corporation. The Unit

has also assisted United States Attorney offices in the convictions of General Electric Company, National Semiconductor Corporation, Martin Marietta Corporation, Rockcor Inc., (a subsidiary of Olin Corporation), Rockwell International Corporation, all major defense contractors.

D. Unit's Assistance to United States Attorney offices

The Unit serves as a catalyst and resource to U.S. Attorney offices in their efforts to fight defense procurement fraud.

It has also encouraged United States Attorneys to focus on procurement fraud cases as high priority matters. It has been instrumental in training investigators and Assistant United States Attorneys, it has assisted materially in establishing lines of communication between United States Attorney offices and components of DOD; and, by regularly providing technical advice to prosecutors across the country, it has stimulated the prosecution of more cases.

IMPORTANCE OF PROSECUTION OF NON-TOP 100 DEFENSE CONTRACTORS

In evaluating defense procurement fraud, I believe we should not limit our attention to allegations of fraud involving top 100 defense contractors, at the risk of ignoring more significant allegations of other contractors. A March 19, 1987 Senate staff report on Justice Department Investigations of Defense Procurement Fraud, [1]/ for example, focused to a great degree on the number of Unit prosecutions of "top 25" or "top 100" contractors. It is important to recognize also the significance of such other matters, as the prosecution of Davey Compressor and its vice-president which resulted in incarceration and $3 million in criminal fines, civil damages and penalties; and the prosecution of the first complex labor mischarging to go to trial, Systems Architects Inc., which involved more than $400,000 in labor mischarging. Often, it is the amount of the fraud, not the contractor, which is significant.

CONGRESSIONAL REPORTS

I am sure you will agree that no one would wish Congressional criticism of the merits of prosecutorial decisions in defense procurement to lead to an erroneous public impression that such prosecutorial decisions are not based upon principles of sufficiency of the evidence or applicability of the law, but instead are a reaction to political pressure. I do assure you and the public that none of our decisions of whether to prosecute are made as a result of congressional pressure.

1/ A staff report presented to the Subcommittee on National Security Economics of the Joint Economic Committee and the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary.

In a similar view, I might suggest that Congressional staff reports and GAO reports focusing on defense procurement fraud might be better served if the Department of Justice were afforded the opportunity to comment on the reports in draft form. The failure to do so could possibly be taken to suggest that these reports are not concerned with an objective review of our efforts in defense procurement fraud. Although the GAO Fact Sheet on Defense Procurement Fraud was transmitted to the requesting congressional committee by GAO without our comment on September 17, 1986, it was transmitted to the Attorney General only by letter dated January 28, 1987, and received the day before his February 4, 1987 testimony before the Judiciary Committee on the subject of the Department of Justice Authorization. By failing to obtain our comments on the GAO Fact Sheet, the March 19, 1987 Staff Report on Justice Department Investigations of Defense Procurement Fraud contains certain mistakes and erroneously based conclusions in its discussions of the Unit. As one example, the staff report disregarded the Unit's participation in the December 2, 1985 indictment of General Dynamics, Inc., and four of its officials. Another erroneous conclusion is the Staff Report's criticism of the Unit's staff turnover. The Unit's and Fraud Section's experience level and staff turnover compares favorably with that of United States Attorney offices.

EFFORTS TO CONTINUE OUR PROGRAM

To implement more effectively our law enforcement effort in this area, the Attorney General, at each meeting of the Economic Crime Council, has emphasized to the United States Attorneys the importance of defense procurement fraud and the need to develop better means of investigating and prosecuting these cases. To identify significant procurement cases, I have instructed that a Quarterly Report be prepared for cases being actively worked by United States Attorney offices, the Unit, and the Fraud Section. This will further enable us to focus on and address technical and/or resource problems in a more effective manner.

To carefully implement the DOD Voluntary Disclosure Program, a supplement to the United States Attorneys' Manual has been prepared and is being distributed to the United States Attorney offices for comment. This guidance will insure consistency of decision making in this area.

QUESTION 2:

At my request, the General Accounting Office (GAO) recently completed a review of cases referred to the Defense Procurement Fraud Unit (DPFU) in your division. GAO found that over the past four years more than 700 defense fraud matters were referred to the Unit for advice, investigation or prosecution.

Information the Justice Department has provided indicates that seven full-time prosecutors are currently assigned to DPFU and your testimony mentions a request for three more next year. Will ten attorneys be able to effectively and thoroughly address hundreds of what you refer to in your testimony as "very labor intensive" fraud cases.

It would be a mistake to compare the cases brought to the Defense Procurement Fraud Unit (Unit) for screening purposes to the number of matters prosecuted in evaluating the resources assigned to the Unit. The GAO Fact Sheet reviewed the 486 defense fraud matters brought to the Unit for advice, investigation or prosecution from October 1982 through December 1985. The Unit in most instances, screens a case at a very early stage when little if any investigation has been done. At this stage, the Unit makes a decision to accept a case, decline it, refer for more investigative work, or take it to a United States Attorney office. The Unit has been able to screen cases on the information presented to it with its existing complement of Department of Justice prosecutors and the five DOD attorneys assigned to it.

When the Unit accepts a case (125 for the period October 1982 through December 1985) it assigns an attorney to monitor and direct the investigation. Often the initial investigation by DOD investigators will result in a case being closed or declined. It is usually only after substantial investigation has been undertaken that prosecutors are required to devote significant amounts of time to a particular case. We intend to do our very best with the Department of Justice prosecutors and the DOD attorneys assigned to the Unit. In addition to the attorneys assigned to the Unit, the Unit utilizes the resources of the 35 other attorneys in the Fraud Section of the Criminal Division. During Fiscal Year 1986, defense procurement fraud cases were the major assignment of seven non-unit Fraud Section attorneys.

The Unit's attorneys prosecute only a portion of the nationally significant procurement cases. The Justice Department's 94 United States Attorney offices around the county have also committed resources to working defense procurement fraud cases. Several United States Attorney offices, e.g. the Northern District of Texas and Southern District of Ohio, have designated prosecutors to specialize in defense procurement fraud cases. In addition 23 United States Attorney offices in areas of major defense contracting have designated defense procurement fraud representatives who will assist in the exchange of contract fraud expertise and the development of cases throughout the country.

(Also, for your information, if the new Chief of our Fraud Section informs me that ten attorneys are not sufficient, in his opinion, to handle the work effectively, I would strongly consider seeking to staff this function up further, in view of its position, at or near the top of the priority list.)

QUESTION 3:

The GAO report also found that among all the defense fraud cases sent to DPFU for action, 58 cases could not be tracked. Neither DOD investigators nor DOJ attorneys could determine what action, if any, had been taken with respect to those 58 matters. In effect, it appears the 58 cases were simply misplaced. When we're dealing with potentially very serious and very costly matters involving taxpayer dollars, and when the Justice Department purports to champion the war on fraud, what could possibly be the justification for misplacing cases?

So far as we are aware, the Department of Justice has not "misplaced" any cases brought to the Defense Procurement Fraud (Unit) for action. To assist GAO, DOD investigative agencies provided GAO with listings of matters brought to the Unit for any purpose. These listings included 58 matters which either did not meet the Unit's screening criteria or were matters brought to the Unit for information only. Therefore, neither the investigators assigned to the Unit nor the Unit Chief kept written documentation of the reasons these matters were brought to the Unit. Before the GAO report was issued the Unit Chief, Morris Silverstein,
informed GAO, by letter of July 1, 1986, that where no entry for "screening action" was made on the GAO listings, the matter may not have met the Unit's criteria or may have been for information only. We are aware of no instance where a case sent to the Unit for screening action was misplaced.

Since January 1, 1986, all cases screened by the Unit have been entered into the Criminal Division's Automated Case Tracking System (ACTS). Information from ACTS is periodically given to each of the Unit's investigative agents for their review and correction.

QUESTION 4: (Part 1)

As you probably are aware, in the late 1970s and early 1980s the Justice Department investigated several cases of alleged fraud in the shipbuilding industry. Up to seven years were spent investigating more than $2 billion in alleged fraud, yet no successful prosecution or civil recoveries resulted. From my perspective, seven years, five years, or even three years of investigation without any formal action does not suggest effective, let alone efficient, law enforcement. In your view, how much time should be spent on a case before some formal action is taken?

The Principles of Federal Prosecution provide that "the attorney for the government should commence or recommend federal prosecution if he believes that the person's conduct constitutes a federal offense and that the admissible evidence will probably be sufficient to obtain and sustain a conviction..." Until a prosecutor is satisfied the admissible evidence is sufficient for prosecution pursuant to this standard, a prosecution should not be brought notwithstanding the investigative time or resources devoted to the case. Your question assumes that a lengthy investigation involving allegations of substantial dollar fraud requires that a prosecution be brought. This assumption, with all deference, is sometimes going to be inconsistent with the nature of a massive fraud investigation and a prosecutor's responsibilities.

As a practical matter, a complex fraud investigation usually takes one to two years to complete. A "mega-case," such as the ship building cases, is not subject to this generalization. In the Newport News investigation, the claims negotiation process took two and one-half years to evaluate each of 264 separate claim items. The initial Richmond prosecutors selected 20 of the most promising items and more than 4,850 pages of grand jury testimony were generated from dozens of individuals and many others were interviewed. The hundreds of thousands of documents obtained during the investigation were stored in a warehouse. The original claim contained in multiple bound volumes and other key documents occupied dozens of file drawers and boxes in the United States Attorney office. This two year investigation resulted in a series of memoranda recommending declination. A subsequent decision was made to reopen the case. The fact is that the most complex investigations can be very time consuming.

QUESTION 4: (Part 2)

Do you have any formal system for ensuring that when workloads increase, current cases are not shifted to a slow track? Ultimately, who is responsible for making sure cases receive adequate attention rather than grow stale in a crowded file drawer?

The key to ensuring that cases are receiving adequate attention is good management and attorney supervision. In the Fraud Section, there are, as of this writing, five supervisory lawyers plus the Chief and two Deputy Chiefs. A supervisory lawyer is assigned a branch of six or seven attorneys. Regular case reviews of the cases within a branch are made by the supervisory lawyer and then by Chief and Deputy Chiefs of the Fraud Section. In a United States Attorney office, a similar supervisory structure exists depending upon the needs of the particular district.

One of the functions of the Defense Procurement Fraud Unit is to identify significant cases at an early stage, make sure they are on the right track, and marshal sufficient resources. Through information provided to the Unit, cases with problems in U.S. Attorney offices have been identified, and the Unit has been successful in many instances by assisting in moving significant cases more expeditiously.

Incidentally, for your information, I plan to increase the number of senior supervisory personnel in the Fraud Section.

QUESTION 4: (Part 3)

While the shipbuilding cases may seem ancient history to some, at least one of those cases is still under investigation. At least we have been told that still active is the General Dynamics/Electric Boat case referred for prosecution in 1978, closed in 1981 and reopened in 1984. Can you give the Committee a status report on this nearly decade-old case?

The Electric Boat investigation was reopened in 1984 in response to allegations of a former corporate vice-president. The case is being actively pursued, but the investigation has been complicated by its size, scope of investigation, age, and the Navy's relationship with the contractor. I expect that a prosecutorial decision will be made very soon on the reopened investigation.

MONEY LAUNDERING

QUESTION:

Attorney General Meese has justified many of the substantial budget increases for the Criminal Division as necessary to implement the 1986 drug bill. The Division's Narcotic and Dangerous Drug Section, however, is not targeted for any increase in staff positions. Why isn't the Narcotic Section targeted for an increase in attorney positions to help implement this statute?

The Criminal Division did not request additional attorney positions for the Narcotic and Dangerous Drug Section because it was our view that the emphasis on enforcement of the Anti-Drug Abuse Act of 1986 should be in the field, particularly with the United States Attorneys. The Narcotic and Dangerous Drug Section will continue to maintain its traditional role of providing policy guidance, direction and litigation support to attorneys in the field. This is a welcome example of the fact that, as I mentioned in my testimony, what works does not necessarily always cost money!

MONEY LAUNDERING

FOLLOW-UP QUESTION #1:

The Department has said in the past that money laundering was one of the biggest problems facing law enforcement, but money laundering is not mentioned as a priority anywhere in the Department's budget justification. Why not?

The Department believes that money laundering is a priority matter and should have been listed as such. The budget, however, was prepared by the Department of Justice and approved by the Office of Management and Budget prior to enactment of the 1986 money laundering bill. Money laundering will be addressed as a priority in future budget submissions. Also, as noted above, I view the new money-laundering statute as a powerful new tool for prosecutors, but it remains to be seen how much of a budgetary impact it will have. I expect we will be reporting back to the Committee on this point in future submissions.

MONEY LAUNDERING

FOLLOW-UP QUESTION #2:

The money laundering bill included sections on international forfeiture designed to encourage international cooperation. The budget document lists the number of forfeiture cases pending, but does not separate domestic and foreign cases. How many of the forfeiture cases are international? Have any requests for equitable sharing with foreign governments been received? If so, how much money do we expect to share in 1987 and 1988?

The Department of Justice has received numerous inquiries regarding international forfeitures and sharings. We have no record of any pending cases involving foreign generated drug assets. However, on at least a weekly basis, Criminal Division personnel discuss with foreign representatives either potential seizures, methods of sharing seizure information, or requirements of equitable sharing. The new statutory provisions will be of great assistance in the fight against international drug trafficking and money laundering.

The only potential problem we foresee is the requirement contained in the new law for the establishment of a treaty governing international equitable sharing. While, of course, a treaty would be useful in protecting the United States' interest in potential transfers when no assistance has been present, we would prefer greater flexibility (that is, no treaty requirement) when dealing with foreign law enforcement agencies who have assisted us on a particular case and subsequently request an equitable share of the proceeds. The requirement for a treaty could markedly reduce the effectiveness of this useful provision of the law.

MONEY LAUNDERING

FOLLOW-UP QUESTION #3:

One of the Sections of the money laundering bill required the Attorney General and the Secretary of the Treasury to reach an agreement before Treasury could conduct investigations involving "engaging in monetary transactions in property derived from criminal activity." Has a formal agreement been reached between the Attorney General and the Secretary of Treasury and if not, have negotiations begun? Have guidelines detailing responsibilities been promulgated? Have any investigations or prosecutions been hindered due to the lack of such an agreement?

Negotiations have begun with respect to the drafting of a Memorandum of Understanding between the Justice and Treasury Departments concerning money laundering investigations. A formal working group, consisting of representatives of the Justice Department, Treasury Department and various investigative agencies within those departments, is already in place and its work is expected to be completed within the next few weeks. A draft agreement has been reached and is presently being reviewed by the affected agencies. All money laundering investigations to date have been conducted under the ambit of the Organized Crime Drug Enforcement Task Forces. Thus, the lack of a formal agreement has not precluded or hindered any investigations or prosecutions.

COORDINATION BETWEEN CRIMINAL DIVISION AND UNITED STATES ATTORNEYS

QUESTION:

Given that overall policy is set in Washington, how do the U.S. Attorneys help establish the Department's priorities for criminal prosecutions? What mechanisms exist to ensure that the correct priorities are set, and that these policies are translated into action by the United States Attorneys?

Last year for the first time, the Executive Office for United States Attorneys conducted a comprehensive survey and formally polled each of the United States Attorneys regarding their litigation priorities. The survey was performed as an antecedent to the budget formulation process and was designed to assess both criminal and civil litigation priorities under two scenarios - with no increase in resources and with a 20% increase in resources. The results were then conveyed to the Attorney General. This year, a similar but abbreviated survey has been sent to all the U.S. Attorneys. The survey results will guide the preparation of the FY 1989 budget process.

The Attorney General's Advisory Committee (AGAC) is made up of 15 representative United States Attorneys who meet bi-monthly with the Attorney General, Deputy Attorney General, and Associate Attorney General. The Assistant Attorney General in charge of the Criminal Division also participates at each meeting. The purpose of the advisory committee is to ensure a constant flow of information between the field and Washington, thus promoting consistency in the application of legal standards, improved management of resources, greater cooperation among law enforcement entities and a forum through which recommendations for change can be surfaced and addressed. Thus, the AGAC is a primary mechanism through which the priorities and polices of the Attorney General are conveyed and translated into action. As a former member and Chairman of the AGAC, I am firmly of the view that it is a most effective body for achieving the objective to which you refer.

In addition, each United States Attorney chairs a Law Enforcement Coordinating Committee (LECC) made up of the district's key federal, state and local law enforcement and criminal justice officials. United States Attorneys regularly consult with their LECCs to establish district-wide law enforcement priorities and periodically submit district law enforcement plans reflecting these priorities to the Attorney General.

Further, at the annual United States Attorneys conference, the Attorney General and Assistant Attorney General for the Criminal Division spend several days discussing the development and implementation of policies and procedures, including problems encountered and recommendations for change.

The above-mentioned forums serve as important mechanisms for ensuring that appropriate priorities are set and translated into action in the field. In addition, Criminal Division attorneys in Washington work on a daily basis with United States Attorneys and Assistant United States Attorneys. They provide support, advice, and general assistance to the field assuring mutual cooperation and optimum consistency in program operations.

COORDINATION BETWEEN CRIMINAL DIVISION AND U.S. ATTORNEYS

FOLLOW-UP QUESTION #1:

I have been concerned about coordination for many years. I am concerned as to the number and complexity of the numerous coordinating entities involved in determining policy. Who sets the priorities for the Criminal Division and decides for example, what priority money laundering might receive -- is it you?

FOLLOW-UP QUESTION #2:

Using my example, if you decide to prioritize money laundering, which of the groups, if any, must sign off on your decision and if two of these entities agree but the others don't, what do you do? If none of the groups have to sign off on the priorities set, then why not abolish all these groups?

The Assistant Attorney General has primary responsibility for setting Criminal Division priorities and determining how the Division's resources are to be allocated. However, such priorities are not set in a vacuum. Of course, the Attorney General, Deputy Attorney General, and Associate Attorney General ultimately establish Department of Justice goals, objectives, and priorities.

As described above, the Division also solicits and receives input from United States Attorneys on their priorities for criminal prosecutions. In addition, my deputies, section chiefs, and others within the Department, such as the Assistant Attorney General for Land and Natural Resources, with whom we work on criminal enforcement of environmental crimes, provide their suggestions for Criminal Division priority areas. I also rely on information from the various investigative agencies. This gives me the federal crime picture as known to those actually out there on the streets working cases.

Another source of input is the Executive Working Group (EWG) for federal, state and local prosecutorial relations. The EWG is an entity composed of six state attorneys general, six district attorneys general, and six Department of Justice attorneys, including the Assistant Attorney General in charge of the Criminal Division. The EWG meet several times a year to discuss law enforcement issues of mutual concern and interest. Through these discussions, priorities can be explained, information shared on important criminal justice topics, and an appreciation gained of criminal enforcement needs.

You specifically mentioned the priority of money laundering in asking how priorities are established. As you may know, money laundering is in fact one of my top priorities. The Bank of Boston and Bank of New England cases, which have served as benchmarks in the currency transaction enforcement area, were prosecuted in my District.

I carried with me from Boston the concern that our financial institutions not be used to facilitate crimes. The Narcotic and Dangerous Drug Section and the Fraud Section of the Criminal Division are now actively engaged in various initiatives relating to money laundering. Matters pertaining to money

laundering are coordinated through the Narcotic and Dangerous Drug Section. That Section has prepared a monograph on the Anti-Drug Abuse Act of 1986, a copy of which is enclosed.

Congressional action in the creation of a money laundering statute was welcome support in the pursuit of our objective in this area. Indeed, priorities such as money laundering take on enhanced importance by virtue of just such support from the Congress and the President. Our anti-obscenity initiative is another example of the Department's interests being promoted by the enactment of federal legislation.

In response to your concern about the many entities involved in determining priorities, I would suggest that, while there is not a "sign-off" procedure per se by any group, I only see benefits to receiving input from numerous sources. The final decision makers are few, but we welcome and encourage receipt of all relevant information that will assist us in using our limited law enforcement resources most effectively.

The various coordinating entities exist to ensure 1) that Department officials have the most complete information possible to use in making decisions as to priorities and, 2) that all affected law enforcement agencies be in a position to coordinate their operations at the maximum level. Thus, our objective is to make sure the federal response to crime is based on the best thinking and implemented in the most coordinated and effective way possible.

CIVIL RICO

QUESTION:

In September, 1985, Phillip Brady, Acting Assistant Attorney General, stated that a prior criminal conviction requirement would not "be the best approach to limiting the scope of civil RICO" and on July 22, 1986 Assistant Attorney General John Bolton informed the Senate in a letter that a prior criminal conviction "would best respond to the increasingly troublesome issues that civil RICO has raised." What accounts for the dramatic turnaround in the official position of the Department of Justice? What is the Criminal Division's current position on civil RICO reform?

In 1985, the Department of Justice preliminarily concluded that a prior-conviction requirement for civil RICO suits was not necessary to achieve civil RICO reform. In July 1986, however, Assistant Attorney General Bolton endorsed that requirement.

Since 1985, the Department, the federal judiciary, and the practicing bar have witnessed a continued explosion of private civil RICO suits, and have heard all sectors of the legal community call for efforts to improve the statute's effectiveness while curbing its potential for abuse. The Department did not believe in 1985, nor does it now, that the prior-conviction requirement is a perfect solution to all of the issues presently associated with RICO reform. However, the prior-conviction requirement, as modified to meet our concerns, appears to be an appropriate step toward legislatively curbing excessive private RICO litigation.

First and foremost, no change to the RICO statute should be made that might adversely affect the Department's ability to bring criminal and civil RICO cases. RICO is one of our most important weapons against organized criminal activity. The Criminal Division opposes any changes in the elements of the RICO offenses or in the statute's basic definitions, such as "pattern of racketeering activity" and "enterprise." We also oppose any procedural changes (such as enactment of a short limitations period) that would impair our present ability to bring suit in appropriate cases.

We do support the view that private plaintiffs have filed RICO lawsuits in situations far removed from the original Congressional intent, and we join those who call for some form of legislative change of RICO. One approach is a prior-conviction requirement of some kind, provided that the implementing legislation meets our primary concerns, particularly that the right of the Government to bring Civil RICO damage actions be clarified in some fashion.

CIVIL RICO

FOLLOW-UP QUESTION A:

In Mr. Bolton's letter, he agrees that civil RICO actions should be available to the Federal Government without the constraint of a prior criminal conviction. If fraud is a serious national problem, and civil RICO relief should be available to the Federal Government without a prior criminal conviction requirement, why shouldn't private citizens and state and local units of government have the same remedy?

First, we believe that state and local governments should be exempt from any such requirement. The latest proposed reform legislation reviewed by the Criminal Division contains such an exemption, which we support. With respect to private citizens, the legislation mentioned above does provide limited exemptions for certain classes of private plaintiffs, such as consumers; we have no objection to those exemptions. However, the Department's experience has shown that many private plaintiffs, unlike government entities, tend to overuse and even abuse the civil provisions of RICO, and do not, as a rule, bring cases that benefit the public at large. Therefore, the Department's conclusion is that curtailing the broad use of the statute by private persons is likely to decrease RICO abuse without adversely impacting on worthwhile cases.

CIVIL RICO

FOLLOW-UP QUESTION B:

If the availability of civil RICO to the Federal Government has a significant deterrent impact, then wouldn't deterrence be increased if the remedy remains available to private citizens?

To our knowledge, private RICO suits have not significantly deterred organized crime racketeering activity. As noted earlier, the Department has carefully studied this and other competing factors in considerable detail. Ultimately it was concluded that any deterrent impact from private suits was outweighed by the need for legislation to cut back on the growing problem of unjustified suits.

FINES AND FORFEITURE

QUESTION:

One of the forfeiture provisions enacted in the 1984 crime bill allows the federal government to share the proceeds from seizure operations with state and local agencies who participate in such operations. In 1986, seizures totalled over $500 million but according to your statement only $24 million -- less than 5% -- was turned over to states. This provision was supposed to encourage cooperation. Why is so little being shared with the states?

Much of what was seized has not yet been forfeited. Beyond this, the amount forfeited which is available to be shared is only a small portion of that originally seized. Much of the property seized is subject to mortgages or is otherwise obligated to good-faith lienholders who are innocent and have no knowledge of the underlying misconduct involved. Under those circumstances, payment must be given to those who hold these "innocent" secured interests. Once the remainder is forfeited, we must deduct the cost of seizing the property, appraising it, evaluating it, storing it, maintaining it, and liquidating it. Then, after all of that is deducted, we share as much as we can with state and local law enforcement authorities so as to reflect their respective contributions to the cases. The amount we have available to share, then, is inevitably only a small portion of what we originally seized. In fact, the amount shared represents 33% of the gross income of the Fund for FY 1986. So far in FY 1987, almost $15 million of the $66 million in gross income has been shared with the states. We project, over a period of time, that equitable sharing will run about 25%.

FINES AND FORFEITURE

FOLLOW-UP QUESTION #1

GAO has reported that seized assets were used by a DEA agent to decorate his office, and seized cash awaiting trial has been stored in ice coolers. What has your office done to handle these problems and the problem of delays in disposition of administrative cases involving seized cash?

I understand DEA has addressed the first part of your question concerning this DEA agent and Associate Attorney General Stephen Trott has issued the attached directive concerning the deposit of cash in the future.

Memorandum

Subject	Date
Seized Cash	March 13, 1987

To
All United States Attorneys
and Criminal Division
Section Chiefs
Administrator, DEA
Director, FBI
Commissioner, INS
Director, USMS

From
Stephen S. Trott
Associate Attorney General

The security, budgetary, and accounting problems caused by retention of large amounts of cash is causing great concern within the Department and the Congress. A just released GAO report has estimated that there is $220 million in cash being retained by various federal law enforcement agencies. Consequently, effective May 1st, all currency seized which is subject to criminal forfeiture or to civil forfeiture, is to be delivered to the United States Marshals Service (USMS) for deposit in the USMS Seized Asset Deposit Fund either within sixty days after seizure or ten days after indictment, whichever occurs first.1/ Where appropriate, photographs or videotapes of the seized cash should be taken for later use in court as evidence.

Limited exceptions to this directive, including extensions of applicable time limits, will be granted, on an interim basis, only with the express written permission of the Assistant Attorney General, Criminal Division, and are to be sought through

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1/ This policy does not apply to the recovery of buy money advanced from appropriated funds. To the extent practical, negotiable instruments and foreign currency should be converted and deposited.

the Asset Forfeiture Office, Criminal Division.2/ Retention of currency will be permitted when retention of that currency, or a portion thereof, serves a significant independent, tangible, evidentiary purpose due to, for example, the presence of fingerprints, packaging in an incriminating fashion, or the existence of a traceable amount of narcotic residue on the bills. If the amount of a seizure is less than $5000, permission need not be sought from the Criminal Division for an exception, but any exception granted is to be granted at a supervisory level within a United States Attorney's Office using the above criteria.3/

The co-mingling of cash seized by the government under 21 U.S.C. §881(a)(6), will not deprive the court of jurisdiction over the res. Unlike other assets seized by the government (e.g. real property, conveyances), cash is a fungible item. Its character is not changed merely by depositing it with other cash. While it is true that the jurisdiction of the court is derived entirely from its control over the defendant res, court jurisdiction does not depend upon control over specific cash. As stated in United States v. $57,480.05 United States Currency and Other Coins and $10,575.00 United States Currency, 722 F.2d 1459 (9th Circuit 1984), " ... jurisdiction did not depend upon control over specific bits of currency. The bank credit of fungible dollars constituted an appropriate substitute for the original res." This has been a time-honored practice in the area of civil forfeiture law. See, American Bank of Wage Claims v. Registry of the District Court of Guam, 431 F.2d 1215 (9th Circuit 1970).

Please review your existing cases and property storage sites and make all required transfers or requests for exemption by May 1, 1987.

2/ Requests for an exemption will be filed by the United States Attorney's Office or Criminal Division Section responsible for prosecuting, or reviewing for prosecution, a particular case. Investigative agencies holding cash should immediately inventory any cash on hand being retained for evidentiary purposes and consult the appropriate prosecutor's office. While implementation of this policy has been delayed until May 1st in order to give agencies time to complete this inventory, prompt compliance wherever possible would be appreciated.

3/ We will be consulting with the Customs Service regarding this new policy. The criteria and procedure for obtaining exemptions remains the same for cash retained by Customs.

Thank you for understanding the immediate necessity for this directive. It will be reviewed at the next United States Attorneys Advisory Committee meeting to determine whether it requires modification. Additional actions or controls are possible after we have had an opportunity to review the GAO report.

For further information or questions regarding implementation of this policy, contact Brad Cates, Director, Asset Forfeiture Office, Criminal Division, at (FTS) 272-6420.

FINES AND FORFEITURE

FOLLOW-UP QUESTION #2:

There has been a near 300% increase in funds requested by the Department from the forfeiture fund to cover expenses of federal enforcement agencies. Given the innumerable past problems with the administration of the forfeiture laws, what changes have been made to ensure that this increase is spent effectively?

As you know, the United States Marshals Service, rather than the Criminal Division, administers the asset forfeiture fund. According to the Marshals Service, the overall increase in funds requested by the Department from the forfeiture fund to cover expenses of federal enforcement agencies has generally risen in proportion to the overall increase in the volume and complexity of seized assets. The expenses at issue are not limited to asset-specific expenses, such as towing, storage, advertisement, and cost of disposal of seized property. Instead, the expenses of federal enforcement agencies referred to in the question cover third-party interests and sharing of property with state and local law enforcement agencies. In addition, the use of the fund to cover new expenses, such as program-related expenses, was authorized by the Anti-Drug Abuse Act of 1986, thus accounting for some of the recent increase in the use of the fund by federal enforcement agencies.

Since most expenditures from the fund are not for property management items but rather for such items as the payment of claims or liens and equitable sharing with state and local agencies, our determination as to how to spend the fund effectively is limited by the legal constraints relating to these expenses. We understand that the Marshals Service has not experienced any significant management problems with seized or forfeited property. However, as noted in response to other questions, the Department has taken steps to eliminate problems that exist elsewhere relating to the use of the forfeiture fund. Some of these actions are summarized in the enclosed statement of Deputy Associate Attorney General James Knapp, before the House Subcommittee on Crime on March 9, 1987. Of particular note is the fact that there is now a Fund spending plan or budget developed every fiscal year, which will be carefully monitored by an inter-agency committee reporting to the Associate Attorney General.

FINES AND FORFEITURE

FOLLOW-UP QUESTION #3:

In 1984 we enacted the Criminal Fine Enforcement Act by giving you more authority to collect fines, and substantially increased the level of fines. However, since that time, collections have decreased. Considering the new enforcement provisions, why are we still having problems?

The collection of criminal fines continues to present difficulties for several reasons. First, much of the problem stems from the requirement imposed on the Department by the Criminal Fine Enforcement Act to carry out the cashier function of receiving the payment of fines and penalties — previously a responsibility handled by the clerks of the courts. These cashier responsibilities are distinct from the activities necessary to collect past due amounts. The addition of this major responsibility by the Criminal Fine Enforcement Act has been extremely disruptive of the prior, regular course of business within the United States Attorneys' debt collection units since it has necessitated many new bookkeeping and cash management procedures and the involvement of United States Attorney personnel to carry out this entirely new function for the Department. Although additional personnel were allocated to help the United States Attorneys with this new task, these slots were never funded. The responsibility for the enforced collection and receipt of criminal fines has been handled without any additional resources. As a result, personnel who previously devoted their efforts to the collection of past due fines have had to divert some of their attention to the cashier function of receiving the payment of fines and penalties, often representing small amounts in cases tried by magistrates. Whereas court personnel previously handled the cashier functions and United States attorney personnel carried out the collection functions, the latter are now performing both of these functions, with no additional employees to absorb the expanded workload.

In addition, many judges are imposing uncollectable amounts as fines despite the language of the Criminal Fine Enforcement Act. While the Act authorizes fines in much greater amounts than previously available, it also requires the court to consider the defendant's income, earning capacity, and financial resources, as well as the burden that the fine would impose upon the defendant, in determining whether to include a fine in the sentence and the appropriate amount of a fine. 18 U.S.C. §3622. Moreover, judges often do not take into account the fact that interest at 1.5 percent per full calendar month automatically applies under the Fine Enforcement Act to any deferred payment of fines, including payment by installment. 18 U.S.C. §3565(b)(2). Therefore, the defendant's ability to pay the fine, in light of the total amount of the fine plus interest, may be overestimated. For these reasons the United States Attorneys' accounts receivable reflect large, uncollectable amounts that were imposed without regard to the financial status of the defendant.

FINES AND FORFEITURE

FOLLOW-UP QUESTION #4:

Changes in the Criminal Fine Enforcement Act were supposed to solve the disagreement between the Justice Department and the Administrative Office of the Courts [regarding] collection of criminal fines. Is this still a problem and if so, what are you doing about it and when will the situation be resolved?

The Criminal Fine Enforcement Act of 1984 provides that the defendant shall pay to the Attorney General any amount due as a fine or penalty, except that the Attorney General and the Director of the Administrative Office of the United States Courts may jointly provide by regulation that fines and penalties for specified categories of offenses shall be paid to the clerk of the court. 18 U.S.C. §3565(d). The responsibility to receive the payment of criminal fines imposed by magistrates remains a problem for the Department. To date, there has been no amendment of the Criminal Fine Enforcement Act of 1984 aimed at solving this problem, which was created by the Act itself. Before the enactment of this provision, the receipt of criminal fines was carried out by the clerks of the courts.

As indicated in testimony before the House Subcommittee on Criminal Justice, it is not cost-effective for the Government to have the United States Attorney offices perform the cashier function of receiving fines and penalties imposed by magistrates. The statement of James I. K. Knapp, then Deputy Assistant Attorney General, Criminal Division, currently Deputy Associate Attorney General, before the Subcommittee on Criminal Justice of the House Judiciary Committee on September 17, 1986 is enclosed for your reference. The United States Attorney offices have no physical presence, at least on a regular basis, in most magistrate courts. Typically, the law-enforcement officer involved in the case presents the evidence against the defendant without the direct involvement of an Assistant United States Attorney. Given that the fines involved are usually too small to render cost-effective expensive collection procedures in the event of non-payment, the key to successful collection in these cases is immediate, in-court payment. Under these circumstances, a system that provides for payment of fines and penalties to the United States attorney is necessarily problematic.

Although significant attempts have been made to reach an agreement with the Administrative Office of the United States Courts specifying categories of cases for payment of fines to the courts, no agreement has been reached. Because of the inability to reach an agreement, the Department urged the enactment of H.R. 3682 in the 99th Congress, which would have amended the Criminal Fine Enforcement Act to require payment to the clerks of the courts of fines or penalties imposed by United States magistrates. It should be clear that this bill, which was not enacted, would have shifted to the courts responsibilities relating only to the receipt of fines and penalties imposed by magistrates, not the collection of unpaid fines and penalties.

While the payment of fines imposed by magistrates under the Criminal Fine Enforcement Act is currently a problem, the difficulties for the Department will be resolved when the Sentencing Reform Act goes into effect on November 1, 1987. The Act repeals 18 U.S.C. §3565 and instead requires the payment of fines to the clerk of the court in all cases. 18 U.S.C. §3611.

FINES AND FORFEITURE

FOLLOW-UP QUESTION #5:

In June of 1986, GAO reported that less than 7% of the criminal fines imposed in cases prosecuted by the organized crime/drug enforcement task forces have been collected. Is the problem in the task forces greater or similar to the problems experienced by U.S. attorneys nationwide? What is being done specifically with the task forces to ensure that fines imposed are ultimately collected?

The problems experienced with regard to the collection of fines imposed in cases prosecuted by the Organized Crime Drug Enforcement Task Forces are similar to the problems experienced by United States Attorneys nationwide. The response to follow-up question #3 explains the reasons for the fine enforcement difficulties. The same United States Attorney personnel process fines imposed in cases prosecuted by the Organized Crime Drug Enforcement Task Forces and those imposed in other criminal cases. If greater fines are imposed in drug and organized crime cases than other cases and if the defendant's ability to pay the fine is not properly considered by the court, the problems described earlier would be exacerbated in the task force cases.

Since the problems surrounding criminal fine collection are essentially the same for cases prosecuted by the Organized Crime Drug Enforcement Task Forces as for other criminal prosecutions, they are all being addressed in the same manner. The Department is providing in-depth training to personnel in the debt collection units of the United States Attorney offices in methods to collect criminal fines. A week-long training session was held last month for advanced debt-collection personnel; lectures and workshops in which students participated and received expert assistance in actual criminal fine problems were included in the training agenda. The Department is planning additional training sessions, including training for Assistant United States Attorneys, aimed at improving criminal fine collection. Debt collection personnel have also been working with the Bureau of Prisons to develop an inmate financial responsibility program to assure that federal prisoners pay their fines. Although just recently begun, this program is very promising.

GENERAL BUDGET

The Anti-Drug Abuse Act of 1986 authorized an additional $31 million for U.S. Attorneys. This same amount was appropriated in the continuing resolution.

1. How many new Assistant U.S. Attorneys will this money provide?

2. How Many will be allocated to the Criminal Division? Of these, which sections will they be allocated to?

3. How many new Assistant U.S. Attorneys have you hired with these funds?

4. Specifically, where have the new Assistant U.S. Attorneys that are not earmarked for the Criminal Division been assigned?

5. Of the new Assistant U.S. Attorneys authorized by the Anti-Drug Abuse Act, how many have been assigned to field offices and how many have been assigned to Washington, D.C.?

The Anti-Drug Abuse Act of 1986 "Authorized to be appropriated for fiscal year 1987 for the Department of Justice for the offices of the United States Attorneys, $31,000,000."

When the Continuing Resolution providing fiscal year 1987 funds was passed, it included $351,000,000 for the United States Attorneys. Encompassed within the $351,000,000 was the alleged $31,000,000 and $6,000,000 for a new Southwest Border initiative. However, the funding level provided was sufficient to fund only the employment levels approved in 1986 plus the Southwest Border initiative. Since no positions were provided in 1987 to go with the $31,000,000, Department policy officials determined that the $31,000,000 would be used across all United States Attorney programs. Basically, the $31,000,000 will allow the United States Attorneys to fill positions that were unfilled in 1986 because of resource reductions imposed by Gramm-Rudman-Hollings. None of the funds were designated for the Criminal Division of the Department of Justice.

The Executive Office for U.S. Attorneys has allocated the 90 positions (60 attorneys and 30 support) provided with the $6,000,000 for the Southwest Border initiative and it expects that they will be filled in the near future. The positions were allocated to six districts sharing the border with Mexico.

The six districts receiving Operation Alliance positions, and status of the allocated positions as of March 16, 1987, are as follows:

	Attorneys			Support		
District	Allocated	Filled	Committed	Allocated	Filled	Committed
Arizona	11	0	10	6	0	1
California, Central	5	0	0	2	0	0
California, Southern	13	7	3	6	6	0
New Mexico	5	1	2	2	0	0
Texas, Western	13	1	6	7	0	1
Texas, Southern	13	0	7	7	0	7

QUESTIONS FOR MR. WELD

QUESTION:

Do you agree that, at least in part, the extradition of Lehder is a result of our foreign economic policies?

We believe that Lehder's extradition resulted primarily from an increased anti-drug stance by the Colombian government in the last few years, because of escalating violence and an increased drug problem within the Republic of Colombia.

What charges will be brought against Lehder?

Lehder was extradited in connection with an indictment returned in United States District Court in Jacksonville, Florida, on September 18, 1981. That indictment alleges that Lehder conspired with others from June, 1978 to May, 1980 in Florida, and elsewhere, to import cocaine and the importation of large amounts of cocaine, from the Bahamas to Florida. Accordingly, the indictment charges multiple counts of importing cocaine into the United States, conspiracy to import cocaine into the United States, and operating a continuing criminal enterprise involving the importation of cocaine. Other federal judicial districts are preparing requests directed to the Colombian government to permit Lehder's prosecution for other charges.

Can you tell us what security risks such a trial will pose?

The security risks posed by the upcoming trial will be severe. They include the possibility of flight or escape, as well as concern for the personal safety of witnesses, agents, prosecutors, jurors and the judge. An additional concern is the protection of Lehder himself from persons who may wish to do him harm.

What can be done to expedite the trial of Lehder?

The trial is presently scheduled for May 18, 1987. At the moment, there is nothing legislatively that can be done to expedite the trial.

Isn't it true that the longer it takes for this trial to begin and end, the greater the risk?

Although the security risks are great, Lehder is being held in pre-trial detention and it does not appear that the risks will escalate prior to trial. It is anticipated, however, that retaliatory efforts could take place if and when Lehder is convicted.

PORNOGRAPHY

Mr. Weld, the Attorney General's Commission on Pornography made many recommendations for Federal state action to fight obscenity and pornography. I intend to be involved in attempting to make some of the changes in Federal statutes recommended by the Commission, but many of the recommendations were for actions that could be taken by the Justice Department without statutory changes. Could you tell us what actions have been taken by the Criminal Division to follow the recommendations of the Commission? What plans does the division and the Department have for future actions in the area of pornography?

In response to the recommendation of the Attorney General's Commission on Pornography, the Attorney General has created within the Criminal Division the National Obscenity Enforcement Unit. This Unit is composed of the Federal Obscenity Task Force and the Obscenity Law Center. The Unit is under the directorship of H. Robert Showers with his two deputies being Marcella Cohen, as Chief Attorney for the Task Force, and Patrick Trueman, as Chief Counsel of the Law Center. The staff of the Unit will consist of eleven attorneys who work full-time through the Criminal Division and four regional attorneys who will remain in the field to assist in coordinating prosecutions. In addition, almost every United States Attorney office has designated at least one assistant as the obscenity and child pornography prosecution specialist to work with the Unit. The Task Force will initiate and coordinate federal prosecutions of obscenity and child pornography violations. The Task Force will also be available to assist state and local prosecutors in obscenity cases. The Obscenity Law Center has been created to serve as a legal and public information resource base. The Center will house sample pleadings, briefs and legislation.

The National Obscenity Enforcement Unit has been playing an integral part in the development of federal legislative proposals that are in keeping with the recommendations of the Attorney General's Commission on Pornography.

The Criminal Division, through the National Obscenity Enforcement Unit, has developed training programs for prosecutors and law enforcement agents both on a national level and through district Law Enforcement Coordinating Committees(LECCs). The Unit will also be available to address concerns expressed by national or local citizen and community groups.

The Unit will work closely with the National Center on Missing and Exploited Children. This relationship has been created to more effectively address and eliminate the use and exploitation of children in the production of child pornography.

The Criminal Division plans to apply the resources of the National Obscenity Enforcement Unit to address obscenity and child pornography violations according to the prosecutorial priorities outlined by the Attorney General. The Unit will work closely with the Organized Crime and Racketeering Section in the investigation of major organized producers and distributors of obscene material. The Unit will reflect the coordinated effort of the Department of Justice to address the organized criminal distribution of obscene material. The Unit will also work closely with United States Attorneys in continuing the vigorous enforcement of

federal child exploitation laws. In both areas, obscenity and child pornography, the Unit will coordinate with federal agencies and where appropriate with state and local officials to enforce the laws against child exploitation, obscenity and organized crime.

MUTUAL LEGAL ASSISTANCE TREATIES

Mr. Weld, according to your prepared statement, the Justice Department has been instrumental in negotiating Mutual Legal Assistance Treaties with Canada and several Caribbean nations. This is an encouraging development, but countries like Mexico and Colombia are conspicuous by their absence from the list you've provided. What are the prospects for concluding legal assistance treaties with some of the Central and South American countries, and how effective do you think such agreements will be in light of the widespread political corruption that exists in many Latin American nations?

Mutual Legal Assistance Treaties (MLATS) are a very important part of the Department of Justice's international anti-narcotics and law enforcement strategy in Latin America.

Regarding the specific question of Colombia and Mexico, we signed an MLAT with Colombia in 1980 which has as yet not been ratified by the Colombian Congress. In 1986 we negotiated an MLAT text with Mexico, and are awaiting Mexican notification of a date for signing after the text has been reviewed within the Mexican Government.

In addition, we expect to begin negotiations with Panama on an agreement to formalize legal assistance in the anti-narcotics and money laundering areas in the near future.

As to the effectiveness of such agreements in the fight against the scourge of narcotics trafficking, we must rely on the growing good faith and commitment of the highest officials in law enforcement in the region.

INTERNATIONAL TERRORISM

Your authorization request includes three attorneys and 485 thousand dollars for dealing with international terrorism. Part of these resources will be devoted to preparing contingency plans for dealing with terrorist incidents in foreign countries. Could you explain more fully what these contingency plans might entail? How do they relate to the growing problem of narco-terrorism?

The Comprehensive Crime Control Act of 1984, which included 18 U.S.C. 1203 (hostage-taking), and the 1986 enactment of 18 U.S.C. 2331 (Terrorist attacks against U.S. nationals abroad) have significantly expanded our jurisdiction over extraterritorially committed terrorist crimes. Crimes committed on foreign soil present special problems in terms of investigation, prosecution, and foreign relations, particularly in the international terrorism arena. The difficulty in formulating our prosecutorial response to a terrorist crime is exacerbated by the fact that, almost always, we must make prosecutorial judgments and take investigative and prosecutorial actions in a crisis mode because lives are at stake and our ability to apprehend and/or maintain control over the terrorist is limited by time.

Because of the foregoing, we must anticipate the legal and strategic issues which will arise and prepare contingency plans to resolve these issues. This entails, inter alia, implementing improvements in the operation of our Command Centers, improving our communications networks, renegotiating pertinent provisions of international treaties, and developing our ability to share terrorist related law enforcement information with foreign governments. In addition, investigators of the FBI, FAA, State Department Office of Diplomatic Security, and, to a lesser extent, investigators from foreign governments, must be trained concerning our overall law enforcement response to international terrorism. The requested authorization would support all of these activities.

The authorization request relates to narco-terrorism in the sense that narco-terrorism is one aspect of the overall international terrorism threat and would be and is addressed by all of our counter-terrorism efforts.

INTERNATIONAL TERRORISM

Mr. Weld: Dealing with terrorism obviously requires close cooperation with the State Department. What, if anything, needs to be done to improve your relations with the State Department? I would like to address specifically the difficulty we seem to be having with getting terrorists extradited to the United States.

Because the Department of State and the Department of Justice each have responsibilities in connection with formulating and executing the United States' response to international terrorism, we have developed a close working relationship with the State Department and we coordinate with the State Department on all pertinent aspects of our counter-terrorism work. The working relationships between the Criminal Division of the Justice Department and the Office of Legal Advisor at the State Department is, in my opinion, outstanding.

Obviously, international terrorism cases present special circumstances, in terms of extradition and in other respects, because more than one nation may have jurisdiction to prosecute the case involved. Also, it is a general principle of extradition law that a person generally can not be prosecuted in one country for his criminal acts and then extradited to another country to be prosecuted a second time for the same criminal acts.

AUTHORIZATION LEGISLATION AND OVERSIGHT OF THE U.S. DEPARTMENT OF JUSTICE

(FBI)

TUESDAY, MARCH 3, 1987

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The committee met, pursuant to notice, at 11:20 a.m., in room SD–226, Dirksen Senate Office Building, Hon. Joseph R. Biden, Jr. (chairman of the committee) presiding.

Also present: Senators Kennedy, DeConcini, Simon, Thurmond, Grassley, Specter, and Humphrey.

OPENING STATEMENT OF SENATOR DeCONCINI

Senator DECONCINI. The Senate Judiciary Committee will come to order.

Senator Biden will be here shortly.

I am pleased to see you here, Judge Webster, to see you here once again before the committee to testify concerning the Bureau's plans and needs for the coming year. I sincerely hope that this is not the last time that you come before us, but if it is, let me briefly tell you how much respect I think all of this committee has for the fine work you and your staff and the tremendous people that you have with you and behind you have done in enforcing the laws of this country.

I do not have a long opening statement this morning. I am interested in hearing from you about the Bureau's experience in the last year and what you need from us to complete your job for 1988. I believe that you have a very respected and receptive audience before you here.

We hope that you will be frank with your needs and problems that you have because I think that you can pretty well call your shots here based at least on my thermometer of how this committee regards the work that you and the Bureau have done.

I want to congratulate you on your part in the recent convictions in New York. I believe that these convictions were important for two reasons. First, of course, they will take a large group of the organized crime leaders out of commission for a very long period of time, I hope for the rest of their lives. Secondly, these convictions are important for the signal they send to organized crime. We are serious in our determination to loosen the hold that organized

crime has over aspects of our society. And more important, we are capable of doing so.

You and I have talked about this on many occasions, and from the first day you came here you indicated to this committee and this Senator that you were committed to this, that it was a top priority. I remember Senator Thurmond when he was chairman of the committee, held special hearings on organized crime, and your bureau participated in that.

So, my congratulations. I know the job is not over. I know that you will continue that fine work.

Senator Thurmond.

OPENING STATEMENT OF SENATOR THURMOND

Senator THURMOND. Thank you very much.

Judge Webster, we are glad to have you with us. I am pleased to be here today for the authorization and oversight hearing for the Federal Bureau of Investigation. I am pleased that Judge William H. Webster, Director of the FBI, is here today to present the administration's views.

In the last Congress, in response to the growing national concern about drugs, we passed a comprehensive drug bill. The FBI has been a major force in combating the drug problem as it is connected to organized crime. I want to commend you, Judge Webster, for your leadership in this area, and I encourage you to keep up the good work. Furthermore, I want to commend you for the fine job you have done in all fields that are under the FBI.

I think you have made an excellent Director, and we are very proud of you.

It is my understanding that the additional budget authority which the FBI is requesting will be focused on four national priority programs: organized crime and drug enforcement, terrorism, foreign counterintelligence, and white collar crime.

I want to thank you for your appearance here today. We look forward to your testimony.

Senator DECONCINI. The Senator from Illinois.

Senator SIMON. I have no questions. I am pleased to welcome Judge Webster, who originally comes not far from my home in southern Illinois, which means he is a person of unusual competence and ability, Mr. Chairman. Thank you.

Senator DECONCINI. You attribute that to the State of Illinois, of course.

Senator SIMON. Absolutely.

Senator DECONCINI. Thank you. The Senator from Pennsylvania.

Senator SPECTER. Thank you very much, Mr. Chairman.

I welcome Judge Webster here again. I worked with him extensively in the past. I congratulate him for a job that is well done. I would like to persuade him to stay a lot longer, maybe we can get to that issue in the hearings. I look forward to an opportunity to raise these specific issues.

Senator DECONCINI. Thank you, Senator Specter.

Without objection, we will insert a statement from Senator Hatch before we hear from Judge Webster.

[Statement follows:]

OPENING STATEMENT OF ORRIN G. HATCH
AUTHORIZATION/OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION
MARCH 3, 1987

MR. CHAIRMAN, I AM PLEASED THAT WE ARE MEETING TODAY TO HOLD THIS OVERSIGHT HEARING ON THE FISCAL YEAR 1988 BUDGET AUTHORIZATION FOR THE FEDERAL BUREAU OF INVESTIGATION. GIVEN THE BROAD RANGE OF ENFORCEMENT THAT FALLS UNDER THE BUREAU'S JURISDICTIONAL RESPONSIBILITY, PERIODIC CONGRESSIONAL REVIEW OF OPERATIONS IS IMPORTANT IN HELPING TO DEFINE AREAS OF EMPHASIS FROM YEAR TO YEAR.

AS WITH PREVIOUS YEARS, THE BUREAU IS AGAIN CONCENTRATING ON FOUR NATIONAL PRIORITY PROGRAMS -- ORGANIZED CRIME, WHITE COLLAR CRIME, FOREIGN COUNTERINTELLIGENCE, AND TERRORISM. IN ORDER TO DEAL WITH THESE SERIOUS ISSUES, THE BUDGET REQUEST INCLUDES THE PROPOSAL OF INCREASED RESOURCES IN ORDER TO PLACE MORE AGENTS IN THE FIELD.

WHEN WE MET WITH JUDGE WEBSTER LAST APRIL TO DISCUSS THE FISCAL YEAR 1987 BUDGET, IT WAS NOTED THAT WHILE ACTS OF

DOMESTIC TERRORISM WERE ON A DECLINE, TERRORIST INCIDENTS THROUGHOUT THE WORLD CONTINUED TO INCREASE. UNFORTUNATELY, 1986 ALSO SAW A RISE IN DOMESTIC TERRORISM. IN 1984 THERE WERE ONLY 13 DOMESTIC TERRORIST INCIDENTS AND IN 1985 THERE WERE 7. HOWEVER, IN 1986, THE BUREAU REPORTS THAT THERE WERE 17 REPORTED TERRORIST INCIDENTS WHICH RESULTED IN ONE DEATH AND NINETEEN INJURIES. NOT ONLY DOES THIS TERRORIST THREAT APPEAR TO BE MORE IMMINENT, BUT INVESTIGATION INTO SEVERAL OF THE EVENTS HAS REVEALED SIGNIFICANT INTERNATIONAL RAMIFICATIONS.

THIS SERIOUS THREAT TO AMERICANS BOTH AT HOME AND ABROAD MUST CONTINUE AS A HIGH PRIORITY WITH THE BUREAU, AND WARRANTS THE FOCUS OF RESOURCES THAT IS BEING REQUESTED.

AS EVIDENCED BY OUR WORK ON THE ANTI-DRUG ABUSE BILL OF LAST YEAR, AN ADDITIONAL AREA OF PRIMARY FOCUS FOR THE BUREAU NEEDS TO BE WITH DRUG TRAFFICKING. THIS AREA IS ESPECIALLY IMPORTANT WHERE IT INVOLVES ORGANIZED CRIME. IN THE DRUG BILL WE ATTEMPTED TO PROVIDE ADDITIONAL LAW ENFORCEMENT TOOLS TO HELP COMBAT THIS NATIONAL PROBLEM AND HOPEFULLY THOSE TOOLS ARE PROVING EFFECTIVE. ALTHOUGH IT MAY STILL BE TOO SOON TO KNOW HOW EFFECTIVE THESE TOOLS HAVE BEEN, ANY INPUT OFFERED BY THE FBI FOR IMPROVING THESE OR OTHER LAW ENFORCEMENT TOOLS WILL BE WELCOME.

THESE MATTERS OF NATIONAL CONCERN, ALONG WITH THOSE OF WHITE COLLAR CRIME, FOREIGN COUNTERINTELLIGENCE, AND OTHER SUBJECTS WITHIN THE PURVIEW OF THE FBI NEED TO COME TO THE ATTENTION OF THE PUBLIC SO THAT PROPER MEASURES CAN BE TAKEN. ALTHOUGH THE SENSITIVE NATURE OF ONGOING INVESTIGATIONS INTO MANY OF THE INDIVIDUAL CASES IN THESE SUBJECT AREAS PROHIBITS US FROM DISCUSSING SPECIFIC DETAILS, HEARINGS SUCH AS THE ONE WE ARE INVOLVED WITH TODAY CAN BE EFFECTIVE IN ALERTING AMERICANS TO THE SERIOUS NATURE OF THE ACTS CURRENTLY TAKING PLACE AND HOPEFULLY THIS WILL RESULT IN STEPPING UP EFFORTS TO COMBAT THESE VERY REAL THREATS.

AS ALWAYS, ANY INPUT OF THE FBI INTO THE LEGISLATIVE PROCESS IS BOTH USEFUL AND IMPORTANT, AND WARRANTS THE EXPENDITURE OF TIME AND EFFORT SPENT IN THE PREPARATION FOR THESE HEARINGS. MR. CHAIRMAN, I WOULD LIKE TO COMMEND YOU AGAIN FOR HOLDING THIS HEARING THIS MORNING.

STATEMENT OF WILLIAM H. WEBSTER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Mr. WEBSTER. Thank you, Mr. Chairman. I am very pleased to appear before you again at the annual FBI authorization hearing.

Before beginning, however, I would like to take this opportunity, if I may, to express my personal appreciation to Senator Thurmond for the cooperation and the courtesy and the support and assistance that he has shown the FBI while so ably serving as chairman of this important oversight committee; and Senator DeConcini, Senator Simon, Senator Specter and all of you. With Senator Biden as chairman, I look forward to continuing to work with you as the order changes.

I know that with your leadership this committee will continue the tradition of vigorous oversight, of cooperation and professionalism that have been its hallmark during my nine years as Director of the FBI.

Many of the FBI's successes during these 9 years could not have been achieved without the support and the confidence that the Congress has demonstrated. The men and women of the Federal Bureau of Investigation understand this and they appreciate it.

Today I would like to review the FBI's accomplishments during 1986 and discuss what I believe will be required for us to continue to meet the challenges of the future. Last year we enjoyed significant successes in all four of our principal priority programs: terrorism, organized crime and narcotics, white collar crime, and foreign counterintelligence. My full statement, which I have submitted for the record, details these accomplishments. In the time I have today, I would like to summarize these priority programs.

First about terrorism: Terrorism and the fear it inspires creates new challenges for the FBI. Protecting our citizens while preserving personal freedoms requires effective law enforcement strategies. Recognizing terrorism as criminal rather than as a political problem is the foundation upon which our terrorism program is based.

Seventeen confirmed incidents of terrorism occurred in the United States during the last calendar year. Although this represents a slight increase following a decline from 51 in 1982, 31 in 1983, 13 in 1984, to 7 in 1985, statistically we are dealing with a relatively small number of figures. Ten of the 17 incidents of terrorism last year occurred on the Island of Puerto Rico, while five took place in Coeur d'Alene, ID.

FBI investigative efforts prevented eight terrorist incidents from occurring in 1986. These included four potential bombings, a planned prison escape, and the possible overthrow of the Government of Suriname.

Over the past several years, the arrest, prosecution and incarceration of the key leadership elements of various terrorist organizations has contributed to a general decline in terrorist incidents in this country. But the experience last year is evidence that the threat posed by both foreign and domestic terrorist groups continues to be quite real.

Good intelligence, good analysis, and sound investigative strategies continue to be the key to dealing with the problem of terrorism in our country.

Abroad I think our stategies have to be keyed to increased cooperation with friendly and supportive countries, and therein lies the challenge—to do these things within the processes of the law.

I would like to turn to organized crime and narcotics. Organized criminal enterprises pose another kind of threat to citizens and to government. In the organized crime program the FBI has achieved unprecedented successes against the La Cosa Nostra families, leaving their criminal enterprises in disarray. In Milwaukee and Kansas City, Chicago, New Orleans, Denver, Philadelphia, and New York City we have put LCN bosses in jail. The chairman made reference to the "Pizza connection" convictions yesterday. That was perhaps the largest drug investigation and prosecution ever undertaken in this country.

In January of this past year, following the successful prosecution of the New York LCN hierarchy known as the Commission, seven of the eight defendants were sentenced to 100 years in jail apiece. We are continuing to build on these successes. Our future efforts will focus on breaking the criminal control and domination of some major national and international labor unions in the United States.

The importation and distribution of illicit drugs is the most critical and devastating crime problem facing the United States today. From a very limited involvement prior to 1982 the FBI's drug enforcement efforts have evolved into a significant commitment of resources focused at the highest levels of drug trafficking enterprises.

On May 7, 1986, the FBI implemented a national drug strategy. This strategy evolved from 4 years of careful analysis of our experience since being given investigative jurisdiction in the drug cases by former Attorney General William French Smith. Our goal now is to attack the upper echelon of organized criminal groups involved in drug trafficking. We believe that by concentrating on the major cities in the drug distribution network we will be more effective in breaking up the drug networks and thereby preventing the drugs from reaching other parts of the United States.

We will continue to go after the profits of the drug organizations by aggressively incorporating seizure and forfeiture actions.

In our white collar program, Mr. Chairman, we concentrate our resources on defense procurement fraud. Since 1984 the FBI's investigations into Defense Department fraud have increased 39 percent. Last year we obtained over two dozen convictions against employees of major defense contractors. One case resulted in $15.7 million in fines, restitutions and civil damages.

The number and complexity of our major bank fraud and embezzlement investigations have also increased dramatically in recent years. From 1982 to 1986 the number of cases involving losses in excess of $100,000 each has nearly doubled. In calendar year 1986 bank frauds resulted in losses of over $1.1 billion, greatly surpassing 1985's reported losses of $842 million. Currently, we are investigating over 200 bank failures. Major bank fraud and embezzlement cases are expected to continue to escalate into 1988.

Public corruption investigations are also conducted under our white collar crime program. In 1986 significant convictions were

obtained as a result of major ongoing investigations of municipal corruption in Chicago and in New York City.

Mr. Chairman, my remarks concerning our efforts in the area of foreign counterintelligence must by necessity, and I am sure you understand, be circumspect.

Increases in our personnel and material resources have enhanced significantly the FBI's foreign counterintelligence investigations. Our investigative efforts have also been assisted by the long-needed restrictions on the freedom of action of hostile intelligence officers in the United States. Three individuals were arrested on charges of espionage in 1986. Two of these have been convicted, while one case is pending. In addition, eight individuals arrested prior to 1986 were convicted on espionage or other related charges.

Mr. Chairman, undercover operations have proved to be one of the most valuable and necessary investigative techniques that we employ to develop cases in our four priority programs. In organized crime and public corruption cases, crimes in which the only witnesses are the criminals themselves, or those who are unable or unwilling to testify, the potential afforded by an undercover agent cannot be overstated. These investigations, as you know, are conducted in accordance with Attorney General guidelines.

To use this investigative tool effectively, we need exemptions from various Federal statutes, exemptions that are renewed annually by the Congress. Because these exemptions allow us to purchase real properties and deposit income generated by our operations into bank accounts, our agents and our investigations are protected from compromise. In the past, delays in the annual authorization of exemptions have disrupted and threatened to jeopardize ongoing operations.

The 1988 Department of Justice authorization bill grants permanent undercover authorities to the FBI and other Department of Justice enforcement agencies. The enactment of these provisions will eliminate the dangerous disruptions that occur each year as the annual authorities near expiration.

Mr. Chairman, I am pleased by our progress in 1986. I hope that you are as well. The achievements in our priority programs reflect our successes, focusing on cases that directly impact upon those crimes that pose the greatest threats to our country. In all of our programs, priority or not, we have worked to improve the quality of cases under investigation in each category.

To continue to meet the unrelenting challenges that face us, the FBI is requesting an increase of $75,775,000 in direct funding over last year's budget as well as the creation of 718 new positions. This request will improve our capabilities in terrorism, organized crime and narcotics, white collar crime, and foreign counterintelligence, as the chairman noted.

The effective and resourceful enforcement of our Federal laws depends upon cooperation among various Federal agencies. The budget increase that we are requesting will fund the integrated digital voice privacy radio initiative. This technology will improve the tactical radio requirements of the FBI, the Drug Enforcement Administration, and the U.S. Marshals Service.

The research and development of new investigative techniques must play a vital role in the future of the FBI and indeed the

entire law enforcement community. The engineering research facility for which this request provides funding will combine the FBI and DEA's engineering capabilities.

By standardizing the technical resources of both agencies, we can facilitate the development of new research and avoid the costly and unnecessary duplication of efforts. By anticipating the future, the FBI can arm itself with the necessary tools to deal with tomorrow's criminals.

Terrorism, organized crime and narcotics, white collar crime, and foreign counterintelligence have increasingly become international crime problems. The extraterritorial jurisdiction that we have received from you illustrates the need to keep our capabilities on the cutting edge of change and at the same time to maintain our commitment to discharge our responsibilities within the rule of law. An investment in resources and research confirms our dedication to keep ours and future generations safe and free.

Mr. Chairman, this concludes my remarks. I will be glad to respond to the committee's questions.

Senator DECONCINI. Thank you, Judge Webster. I have a couple of questions. I will submit a couple of questions also in writing so they can be answered by you later. We will also insert your full written statement, without objection.

[Prepared statement follows:]

STATEMENT

OF

WILLIAM H. WEBSTER

DIRECTOR

FEDERAL BUREAU OF INVESTIGATION

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am pleased to appear before you again at the annual authorization hearing regarding the Federal Bureau of Investigation to discuss the FBI's accomplishments over the past year and what will be required to meet our future needs and goals. Before beginning, I want to take this opportunity to thank Senator Thurmond for the cooperation, courtesy, support and assistance given to the FBI during the Committee's vigorous exercise of its oversight responsibilities while he was Chairman and to wish Senator Biden well as he takes up those important duties. Mr. Chairman, I look forward to continued vigorous oversight and a cooperative and cordial relationship with the committee during your tenure.

In 1986, important accomplishments were achieved in the FBI's four national priority programs -- organized crime/drug enforcement, white collar crime, foreign counterintelligence and terrorism.

Mr. Chairman, time does not permit me to discuss all of the FBI's investigative accomplishments over the past year; however, I would like to highlight some of the more significant successes.

TERRORISM PROGRAM

In calendar year 1986, there were 17 terrorist incidents in the United States. This compares with 51 in 1982, 31 in 1983, 13 in 1984, and 7 in 1985. One individual was killed and 19 were injured as a result of the terrorist acts in 1986. Puerto Rican terrorist groups claimed responsibility for ten of these incidents, including one resulting in the loss of life. Domestic right wing groups took credit for five incidents and two incidents have been attributed to Jewish extremist elements. Also in 1986, eight terrorist incidents were prevented as a result of FBI investigative efforts, including four potential bombings, one prison escape, the possible overthrow of the

government of Suriname and a potential tear gas attack on a Soviet sponsored cultural dance troupe.

During 1986, the Terrorism Program recorded 105 arrests and 86 convictions. Among those successes were the May 15 arrests of eight individuals attempting to obtain weapons for use by the Provisional Irish Republican Army in Northern Ireland; the arrest of six right wing extremists in connection with a plot to rob an armored truck; the apprehension of Mutulu Shakur who was wanted in connection with the 1981 Brinks armored truck robbery; and the apprehension of Richard Scutari, a member of the Order, an offshoot of the Arayan Nation. Both Shakur and Scutari were Top Ten Fugitives.

Since 1985, as a result of the Act Against Hostage Taking, which was enacted as part of the Comprehensive Crime Control Act of 1984, the FBI has been actively investigating terrorist incidents committed outside the United States. In addition, the last Congress passed the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986, which includes the statute prohibiting certain terrorist acts committed against United States nationals outside the United States. The FBI has conducted investigations of the 1985 highjacking of TWA Flight 847, the highjacking of the Achille Lauro in October, 1985, the explosion aboard TWA Flight 840 in April, 1986 and the boarding of Pan Am Flight 73 by terrorist gunmen at the Karachi Airport. Because these investigations are conducted at great distances from the shores of the United States, they strain FBI resources. In the last year, approximately 18 direct Agent work years were expended in investigations relating to the Act Against Hostage Taking. In addition, these investigations required a tremendous amount of headquarters coordination and the travel of our Special Agents to Europe and the Middle East to collect evidence and conduct interviews. These investigations with their extensive foreign travel have been costly and as the FBI continues to investigate terrorist acts committed outside of the United States, these costs will unavoidably increase.

The FBI is the lead federal law enforcement agency in the United States government's fight against terrorism and is responsible for preventing, interdicting, and investigating the criminal activities of domestic and international terrorist

groups and individuals. Over the past several years, the arrest, prosecution and incarceration of the key leadership elements of various terrorist organizations have contributed to a general decline in the number of terrorist incidents committed in the United States. However, the increase in the number of incidents recorded in 1986 is evidence that the threat of terrorism in the United States has not been eliminated. The potential for significant terrorist violence at the hands of both foreign and domestic groups continues to be quite real, and as events in the past year indicate, the terrorist threat to Americans at home and abroad is significant. The FBI is committed to a program of intensified investigative activity and we will continue to upgrade our analytical capability in the terrorism area. Those who contemplate a terrorist course should be forewarned that we will continue to dedicate the resources necessary to make conditions in the United States inhospitable for terrorist deeds.

ORGANIZED CRIME-DRUG ENFORCEMENT

In 1986, FBI investigative efforts in the Organized Crime and Drug Enforcement areas resulted in the filing of 2,256 indictments and informations and 1,797 convictions and pre-trial diversions. The convictions included 1,294 for drug violations, 72 in the area of labor racketeering and 160 LCN members or associates. In addition, Organized Crime-Drug Enforcement Task Force investigations resulted in the filing of 2,184 informations and indictments and 1,610 convictions and pre-trial diversions.

The numbers cited above do not adequately describe the effect the FBI has had on the LCN and other organized criminal groups operating in the United States today. Unprecedented investigative and prosecutive successes have been achieved against the LCN and have left their operations in disarray. In Milwaukee, Kansas City, Chicago, New Orleans, Denver, Philadelphia and New York, LCN bosses are incarcerated. In January of this year, following the successful prosecution of the New York LCN hierarchy known as the "LCN Commission", seven of the eight defendants were sentenced to 100 years in jail and significant fines were imposed. During 1986, for the first time,

a Civil Rico complaint was filed charging 31 defendants with controlling a labor organization through a pattern of racketeering activity. The government is seeking injunctive relief from the Laborers International Union of North America Local 6A, District Council of Cement and Concrete Workers and various Colombo LCN members and associates in an effort to return control of the Union to the membership. We will continue to build on these successes and we will focus our future efforts on breaking the criminal control and domination of some major national and international unions in the United States.

The Organized Crime program achieved a number of other important successes. As of December, 1986, 45 individuals have been arrested and/or indicted in an investigation of corruption among sheriffs, judges, a district attorney and other public officials in five counties of Eastern Tennessee. An additional 22 subjects are expected to be indicted. A joint task force consisting of the FBI, the Internal Revenue Service, and New York State and County Police Departments and Prosecutors exposed a scheme to defraud state and federal governments by evading gasoline excise taxes. The task force investigation has resulted in 11 federal and state convictions to date and the New York State Department of Taxation estimates that the disruption of the scheme will increase excise tax revenue in New York by $200 million.

The FBI continued its attack on emerging criminal groups. Following an investigation by the FBI's Miami Division, indictments were obtained against 12 present or former members of the Outlaw Motorcycle Gang charging them with violations of the RICO statute. The indictment was based on 90 predicate acts including 11 murders, armed robberies, kidnaping, extortion, prostitution, and narcotics trafficking. In New York, in September, 1986, 12 defendants were convicted following a joint FBI/New York City Police Department investigation of the activities of a Chinese gang known as United Bamboo. The charges included illegal drug trafficking, the murder of journalist Henry Liu in California, extortion and weapons trafficking.

In the narcotics area, after an extensive three year investigation, over 100 members of a major Mexican narcotics organization operating from Durango, Mexico have been indicted

and arrested for various Title 21 violations in Chicago, Illinois. Forty-one subjects have been convicted and additional indictments are expected. An investigation by the FBI, DEA and Italian authorities resulted in the arrest of over 60 subjects, including a Sicilian Mafia figure, Vito Salvatore Sullo, who was wanted on murder and heroin charges by Italian police in Sicily, Italy. The subjects operated an international heroin smuggling and distribution network in Texas, New Jersey, and Massa Carrara, Italy.

The successes of the Organized Crime-Drug Enforcement Task Force investigations include a two year investigation of the Mexican Herrera Organization activities in Chicago, Denver, El Paso, Indianapolis, Miami, Los Angeles and San Juan which has resulted in the convictions of 44 subjects to date; an investigation of the the drug trafficking activities of the Jackson, Mississippi chapter of the Bandido motorcycle gang which resulted in the August, 1986, indictments of 13 Bandido's gang members and associates; and the arrest of 42 subjects in connection with the investigation of a group believed to be responsible for importing heroin from Pakistan, Holland, Belgium and England for distribution throughout the East Coast of the United States.

We shall continue to work hard to achieve even greater successes in the future, particularly against drug trafficking, which is the most critical and devastating crime problem facing the United States today. Its effects extend throughout the framework of American society. In no program is the need for success greater.

Prior to 1982, the FBI played a very limited role in fighting drug trafficking. Since then, our effort has evolved into a significant commitment of resources directed at the highest levels of the trafficking organizations.

On May 7, 1986, the FBI implemented a national drug strategy. This strategy, which is a result of extensive research, independent study and input from all of our field offices, defines our role and goals in the battle against drug trafficking. Our objective is to eliminate the upper echelon of the organized criminal groups involved in drug trafficking, including the LCN/Sicilian Mafia, the Columbian/South American

cartels, the Mexican drug trafficking organizations and other organized crime groups such as the major national outlaw motorcycle gangs and Oriental gangs. We are concentrating our resources to attack these organizations in cities considered to be the major centers of drug activities. Cities such as Miami, Los Angeles and New York are the main centers for the importation and national distribution of illegal drugs. Other cities, including Atlanta, Boston, Chicago, Houston, San Diego and San Francisco have developed into regional redistribution centers. We believe that by concentrating on these areas, we will be more effective in breaking up the drug organizations before they reach other parts of the country. We will continue to pursue the profits of the drug organizations by aggressively incorporating seizure and forfeiture actions in each investigation.

Since receiving concurrent jurisdiction to investigate Title 21 matters, the FBI and DEA have been working together to build a closer relationship, both in the field and at the headquarters level. In a continuing process, the FBI and DEA are integrating operational, technical, training and administrative aspects of each agency. To effect economy and enhance efficiency, the FBI and DEA have collocated in several offices and more sites are currently being studied for future expansion of the collocation concept. The FBI and the DEA have exchanged supervisory personnel at the headquarters level to enhance the insight and understanding of the administrative aspects of each agency. We will continue integrating our activities so that both agencies can work together toward the common goal of dismantling the major drug trafficking organizations.

WHITE COLLAR CRIMES

The White Collar Crime Program has three major investigative priorities: government fraud, public corruption, and financial crimes. In 1986, 4,400 individuals were convicted or entered pre-trial diversion programs as a result of the efforts expended in this program.

Fraud against the government is the top investigative priority of the FBI's White Collar Crime Program. Of primary concern are Department of Defense procurement frauds involving kickbacks from subcontractors to prime contractors, improper

labor charges, defective pricing, product substitution and false test certifications. Since 1984, Department of Defense fraud investigations conducted by the FBI have increased 39%. The 896 convictions and pre-trial diversions obtained in governmental fraud cases in 1986 included over two dozen criminal convictions involving major defense contractors that resulted from joint investigations with Department of Defense investigators. Additionally, testimony concerning contractor kickback schemes uncovered by the FBI in the Los Angeles area was cited by the Subcommittee on Oversight of Government Management of the Senate's Governmental Affairs Committee in their successful efforts to amend the Anti-Kickback Act.

Among the more notable government fraud successes in 1986 were the conviction of Litton Systems, Inc. following a plea of guilty to 320 counts of false claims and mail fraud involving mischarging for material costs on approximately 45 contracts for military hardware, and the indictment of 19 subjects charged with mail fraud, tax evasion and receipt of kickbacks in a kickback scheme between contractors and subcontractors in Los Angeles, California. The Litton case resulted in a combination of restitutions, fines and civil damages totaling $15.7 million being paid to United States government.

The financial crimes program recorded 3,199 convictions in 1986, of which 61% were for bank fraud related violations. The number and complexity of major bank fraud and embezzlement matters under investigation by the FBI has increased dramatically in recent years. From 1982 to 1986 the number of cases involving losses in excess of $100,000 has increased 97%. In calendar year 1986, losses from bank frauds exceeded $1.1 billion. This is a substantial increase over the $842 million in losses recorded in 1985. A 1984 study by a subcommittee of the Government Operations Committee of the House of Representatives found actual or probable criminal misconduct by officers, directors, or other bank insiders in 61% of the recent bank failures. The FBI is currently investigating over 200 bank failures and it is anticipated that the number of major bank fraud and embezzlement cases will continue to escalate into 1988.

Among the successes of the financial crimes program were the convictions of seven former officers of ESM Government

Securities and the former managing partner of the Miami office of Alexander Grant and Company, Certified Public Accountants, for their participation in a nationwide fraud scheme involving the purchase and repurchase of government securities which caused losses of over $300 million to financial institutions, municipalities and creditors; the convictions of over 80 individuals in Texas in connection with a real estate loan fraud scheme which led to the failure of two savings and loan associations, and which is expected to result in the payment of $400 million in federal deposit insurance funds; the conviction of two former bank presidents and a former bank director in connection with the failure of five banks in the Permian Basin area of Texas; and the conviction of eleven individuals from South Florida who defrauded several major banks of over $100 million by obtaining loans collateralized by fraudulent bills of lading.

The Public Corruption program recorded 232 convictions last year. Major municipal corruption investigations are continuing in Chicago and New York. In Chicago, a probe into the acceptance of bribes by Chicago officials has led thus far to two convictions and five indictments. Also, the operation Greylord investigation into judicial corruption continues to produce significant convictions. In New York, a major Bronx political leader and others were convicted on racketeering charges stemming from kickbacks paid to obtain contracts with the city's Parking Violations Bureau. In Mississippi, nine county supervisors were indicted and arrested for their roles in extensive kickback schemes related to state procurement of goods and services, and, in Guam, the former governor was convicted of various charges relating to his receipt of bribes to influence the awarding of contracts by the Government of Guam.

FOREIGN COUNTERINTELLIGENCE

Mr. Chairman, my remarks concerning our efforts in the area of Foreign Counterintelligence must, by necessity, be circumspect. Our responsibility in this area is to identify foreign intelligence officers and their Agents operating in the United States and to prevent them from being successful in their efforts. The FBI's mission in this area is a difficult one, but I believe we are succeeding and our publicized successes are only a small part of the picture.

The FBI continues to enjoy an increase in personnel and material resources in support of our foreign counterintelligence investigative efforts. This, coupled with our continued energetic support for additional restrictions on the freedom of action of hostile intelligence officers in the United States, contributed to a successful year in terms of arrests and convictions. During 1986, three individuals were arrested on charges of espionage. Two of those individuals were convicted and one case is still pending. In addition, eight individuals, who were arrested prior to 1986, were convicted of espionage or related offenses.

Our foreign counterintelligence efforts were further enhanced by numerous expulsions, including the expulsion of a large number of Soviet diplomats from the United States. These actions were taken by the Department of State in order to obtain strict parity between Soviet and United States diplomatic representation.

INTERNATIONAL OPERATIONS

Mr. Chairman, over the past five years, the FBI's involvement in international police matters has increased substantially. The change in our role has been brought about primarily as a result of the granting of jurisdiction to the FBI in drug cases and legislation establishing extraterritorial jurisdiction in terrorism matters. Prior to 1982, our role was limited to providing investigative assistance to foreign police agencies, to seeking foreign assistance in some organized crime and white collar crime cases and to training foreign police officials through the National Academy and other training programs.

Recently, in recognition of the FBI's increased responsibilities, I approved the establishment of an Office of Liaison and International Affairs as part of the Office of the Executive Assistant Director for Investigations. This office will serve to coordinate the FBI's international activities, including our Legal Attache program, which has offices in 13 nations and operates worldwide; Interpol; and international working groups such as the United States/Italian narcotics working group and the United States/Japan organized crime working group, which is in its formative stages. Mr. Chairman, the FBI

is working hard to carry out its responsibilities in the international area in a manner that is consistent with our tradition of excellence in law enforcement.

GENERAL CRIMES PROGRAM

The FBI is directly involved at the street level in attacking violent personal and property crime through its general crimes programs. Investigative efforts in the General Crimes Program in 1986 led to the convictions of 4,208 persons in Federal Court and 1,015 subjects in state and local cases.

Through the fugitive program, the FBI assists state and local law enforcement agencies seeking felons who cross state boundaries to avoid prosecution or confinement. Typically, these fugitives are wanted for such crimes as murder, armed robbery, aggravated assault, rape and narcotics offenses. Additionally, abductions of children by natural parents in defiance of custody decrees are investigated. Efforts are made to locate and apprehend major narcotics violators sought by the Drug Enforcement Administration, as well as other fugitives in cooperation with other federal agencies, at their request.

Overall, in 1986, the FBI arrested or located 9,492 subjects and served 1,622 criminal summonses. This includes the arrests of 1,422 fugitives charged under the Fugitive Felon Act. In addition, nine fugitives who were on the FBI's ten most wanted list were apprehended. This is the most arrests in the "Top Ten" program in any single year since 1977. Among those arrested were Charles Lee Herron who was arrested without incident by the FBI and the Florida Highway Patrol. Herron, who was being sought in connection with the killing of two police officers in Nashville, Tennessee, had been one of the FBI's 10 most wanted fugitives since 1968. In addition, the FBI assisted the Canadian government by locating and arresting Yvon Savard, one of Canada's most wanted fugitives, who had been sought since 1973 when he escaped from custody following his conviction in 1967 for the death of a bank manager during a bank robbery in Quebec, Canada.

The personal crimes program addresses a group of offenses involving the common characteristics of threatened or actual injury or loss of life, including tampering with consumer products. A major success in the fight against product tampering occurred in May, 1986 with the arrest of a stockbroker trainee,

Edward Arlen Marks, who had contaminated cold, allergy and diet capsules with rat poison in an attempt to manipulate the stock price of the manufacturer. He was linked to the tampering by a fingerprint found on one of the packages containing poisoned capsules. Marks pled guilty to nine counts of tampering with consumer products pursuant to the Federal Anti-Tampering Act which was passed as part of the 1984 Comprehensive Crime Control Act. He was sentenced to 27 years in prison.

CIVIL RIGHTS PROGRAM

In fiscal year 1986, the Civil Rights Program recorded 66 felony convictions and achieved several notable successes. On November 14, 1986, a Texas judge, an attorney and a bondsman were indicted for civil rights and related violations in connection with a scheme in which women who had pending criminal matters in the District Courts of Tarrant County, Texas had to engage in sex in order to receive consideration for probation, leniency and other matters in their criminal proceedings. In April, 1986, 16 subjects were convicted and, subsequently, sentenced in Federal Court in Ashville, North Carolina for violations rising out of numerous acts of cross burnings, shootings at residences and harassment of blacks and interracial couples by the Ku Klux Klan in North Carolina. Finally, in September, 1986, seven members of the religious cult organization known as the "Black Hebrew Israelites Jews" were convicted of involuntary servitude and slavery and related civil rights violations in connection with the enslavement of approximately 66 minor children. One of the enslaved children had been beaten to death.

UNDERCOVER OPERATIONS

Mr. Chairman, I would like to conclude my discussion of our investigative programs with some observations about the use of undercover operations. In many areas of criminal activity, particularly organized crime and public corruption, the only witnesses are the participants themselves or witnesses who are too fearful to testify. The use of the undercover technique, inserting law enforcement personnel in an undercover role to develop admissible evidence, is essential in our efforts to penetrate such criminal endeavors. The FBI employs the undercover technique with strict adherence to the Attorney General's guidelines and only in those situations where it is

appropriate and traditional investigative methods have proven unsuccessful. Operations are closely monitored at the field and Headquarters level. Selection and training of Agents are supervised by FBIHQ to ensure that operations are staffed with experienced personnel. During 1986, undercover operations led to the filing of 2,552 complaints, informations and indictments, 1,098 arrests, 1,365 convictions and $65.9 million in recoveries.

Mr. Chairman, as you know, effective implementation of this important investigative aid requires exemptions from various federal statutes. These exemptions, which are renewed annually by the Congress, permit us to do a variety of things to avoid compromising our undercover operations, such as purchasing real property or depositing income from operations into bank accounts. In the past, delays in the annual authorization of exemptions have disrupted and, at times, seriously jeopardized on-going operations. The 1988 Department of Justice Authorization Bill provides for permanent undercover authorities for the FBI and other Department of Justice law enforcement entities. The enactment of those provisions would eliminate the uncertainties and disruptions that occur each year as the annual authorities near expiration.

FISCAL YEAR 1988 BUDGET REQUEST

For Fiscal Year 1988, the FBI is requesting a total of $1,484,421,000 in direct funding and 22,974 positions. This represents a net increase of $75,775,000 in funding and 718 positions.

The FBI will continue to emphasize Foreign Counterintelligence; Organized Crime and Drug Enforcement; White-Collar Crime; and Terrorism investigations as nation-wide investigative priorities. We are seeking increased budget authority totalling $15.6 million to support an additional 106 Agent and 139 support positions for the Organized Crime Program and 12 Agent positions for Organized Crime Drug Enforcement; $2 million in increased budget authority to support 42 Agent and 38

support positions in the White Collar Crime Program; and $1.9 million in increased budget authority for 21 Agent and 12 support positions in the Terrorism Program. Enhancements are also being sought for the Foreign Counterintelligence Program. Increases for 1988 will also allow for continuation of the Integrated Digital Voice Privacy radio initiative to support the tactical radio requirements of the FBI, DEA, and U.S. Marshals Service. Funding will be provided for construction of the Engineering Research Facility to house FBI and DEA engineering entities in order to standardize the technical equipment of both agencies and avoid duplication of research and development projects.

Mr. Chairman, this concludes my prepared remarks. I will be happy to answer any questions.

Senator DECONCINI. I am impressed by your new drug policy of targeting the upper echelon of drug trafficking organizations and by your efforts to coordinate your operations with DEA and Customs and other agencies involved in this.

You have identified the City of Phoenix, Arizona, as a major distribution center for Mexican heroin. Without compromising ongoing investigations, can you tell us how successful your drug policy has been so far in Arizona and what sort of results you hope to achieve over the next year?

Mr. WEBSTER. It may be more appropriate for me to respond specifically on the issue of Phoenix on the record. I have just come from down there. I know some of the problems. As what we call a second-tier city, it is one of the cities into which drugs travel generally from Los Angeles from Miami or New York City after they have crossed the border at various places. Arizona, of course, is on the border. Many drugs are coming across, are being walked across, carried across, driven across, flown across, and it represents a major problem. But we view it as one of the areas in which we will focus our resources and try to stop the flow of drugs on the supply side.

It is our view that in the first- and second-tier cities, the drugs remain under the control of the original cartels that bring them in. If we can knock them at that point, the chances of their being redistributed into other hands and spread across the country will be substantially diminished.

Senator DECONCINI. So, that means the entire State is getting additional assets, or, though Phoenix is the focus city, that means the border as well?

Mr. WEBSTER. We use the city as a vehicle for identifying the focal point for distribution. We will pursue it wherever the investigations take us and whatever resources we need. I do not want to be more specific about where they will be placed.

Senator DECONCINI. But, Judge Webster, without being more specific, is it safe to say that, when you say more assets, you are talking about more people are or have been going to be assigned to these target cities and target areas around the country, including Arizona?

Mr. WEBSTER. That is generally correct, Mr. Chairman. We have been doing that with additional resources that the Congress has given us. Thus far, we have not had to pull any resources away from existing cities and divisions.

Senator DECONCINI. Also, Judge Webster, there was a lot of hoopla last year when Judge Claiborne was being tried by the Senate and impeached, about some type of oversight hearings; and I know you had some slight objections of extending that too far. I am not here to rehash that. But one concern I have had a long time is that you operate now on a yearly authorization for some of your activities. Would it not be advantageous to address that problem of some of those undercover and other activities in a charter or longer authorization for the FBI?

Mr. WEBSTER. As you know, Mr. Chairman, a charter was proposed and introduced for the FBI several years ago which had bipartisan political support on both sides of the aisle. My recollection is that both Senator Kennedy and Senator Thurmond at the time

sponsored the bill. The bill did not go anywhere, but we adopted that charter internally as our guiding rules for conduct. And that was supplemented by detailed Attorney General guidelines for the use of undercover techniques.

We have been working now with the Drug Enforcement Administration to provide more commonality between the FBI and DEA in terms of standards for undercover work under the guidance of the Attorney General.

Senator DECONCINI. It is true that you only operate on a 1-year authorization for that?

Mr. WEBSTER. Yes, it is. It is true.

I am sorry. I missed the point of your question.

Senator DECONCINI. Would that not be enhanced if it were more than 1 year, or does that cause you a problem?

Mr. WEBSTER. Yes, if we could have permanent authorization to engage in certain specific activities under the review of the Attorney General, such as investing in real property, utilizing receipts from undercover businesses to maintain the businesses rather than taking those receipts and putting them back into the Treasury, the use of bank accounts in other-than-government name, we could better protect the undercover operation itself from disclosure. There are some technical provisions that affect the Government generally that we need exceptions from, and you have always given us those exceptions on an annual basis. But when we come right up to the end of the year and we are waiting for the authorization, we have had to close down important operations because of——

Senator DECONCINI. Because of lack of authority?

Mr. WEBSTER. Yes, Mr. Chairman.

Senator DECONCINI. So, you would be interested in pursuing that, or this committee pursuing that, as to reasons and justification and hopefully legislation that would grant longer authority than the 1 year?

Mr. WEBSTER. Yes, Mr. Chairman. I believe it is in the current Department of Justice authorization bill. It would be very helpful to us.

I believe we have demonstrated our responsibility, that we act responsibly in this area. We are, of course, subject to audit and accountability for it. We are providing audit statements on these undercover operations to the Congress.

Senator DECONCINI. Thank you, Judge Webster.

I will yield to the chairman now. And I was about ready to yield to Senator Thurmond for questions.

The CHAIRMAN. You go ahead.

Senator THURMOND. Thank you, Mr. Chairman.

Judge Webster, in your testimony you stated that in May, 1986, the FBI began implementing a national drug strategy. Do you feel that the requested budget authority is sufficient to ensure the success of this strategy?

Mr. WEBSTER. Senator Thurmond, we are in a budget crunch. We realize that we cannot have as much money as we would like. There is far more to do than our budget request would permit us to do. What we try to do with a national strategy is take the money that OMB believes it can dedicate to this purpose and use it in a

way that will have the greatest impact on the drug scene. And I believe that it will have a substantial impact.

Senator THURMOND. Judge Webster, in recent years terrorism both at home and abroad has caused great concern. As you know, Congress enacted new laws in 1984 and 1986 which provide punishment for hostage taking that occurs inside and outside the United States as well as terrorist acts committed against U.S. nationals outside the United States. In your opinion, what more, if anything, should be done to address this problem?

Mr. WEBSTER. Our experience, Senator Thurmond, with terrorist incidents against U.S. citizens and U.S. property is that most of it is taking place outside the United States. In fact, over 30 percent of all the terrorist incidents in the last several years have been against U.S. persons or U.S. property abroad.

Giving extraterritorial jurisdiction, as we call it, does not give us any authority to do anything abroad; it gives us the right to investigate and for the courts to prosecute terrorists committing activities outside the United States against U.S. citizens.

We have to be able to conduct the kind of investigation that we do in the United States promptly, effectively, professionally, assisting the local countries, some of whom do not have the forensic capabilities that we do to develop the basis for criminal indictment, or arrest warrant. The warrant or indictment, in turn, provides the basis for arrests abroad and for extradition under many of the mutual assistance treaties that now exist.

It becomes a problem of international relationships, getting the other countries to recognize that we want an apprehended terrorist back to prosecute for crime, that it is not purely a political effort.

I do not believe there is anything that occurs to me at the present time that the Congress can do in the way of legislation. It is a substantial increase in our responsibilities to have to conduct those investigations.

One of the ways that I think you might want to consider working with us is in strengthening our legal attaches abroad. We have some 13 offices around the world with a relatively few number of legal attaches, some of whom have to cover an entire continent.

With the increase of this international work, it may be necessary for us to strengthen those offices which are attached to and reportable to the ambassadors of those countries, our ambassadors, that is.

Senator THURMOND. Judge Webster, in 1985, the FBI received approximately $9 million for construction of an engineering research facility. The purpose of this facility is to combine the engineering, and research and development activities of the FBI and the DEA for development of equipment to meet their investigative needs. In the 1988 budget authorization, the FBI is requesting an additional $13 million for this facility. It is expected that $13 million will also be requested for fiscal year 1989. What events have occurred to cause this increase in the cost of the facility?

Mr. WEBSTER. Mr. Chairman, I would have to say very candidly that I believe that our original estimates were understated. In the meantime, the ability to centralize our engineering capabilities, additional enhancements and requirements of a technical nature have been added to the requirements for the engineering facility.

I do not like to see that kind of an increase presented to the Congress, but it has been very carefully reviewed at all levels of the executive branch and has the full support of the executive branch.

I believe we will do a better job with the engineering facility. The DEA and the FBI units there will provide a more standardized and expert approach to future problems and dealing with our current ones. It is a facility that I think you will be proud of. But I regret that we have had to come back to you with such substantial increases in cost estimates.

Senator THURMOND. Judge Webster, recently the President announced the formation of the National Drug Policy Board, which combines all of the Government's anti-drug programs under one Cabinet-level board in order to more effectively address the current drug problem. How do you expect this board to improve the fight against drugs? Specifically, do you believe it will improve coordination of drug policy in the Federal Government?

Mr. WEBSTER. I do believe that it will improve coordination. When analyzed, what has happened is a relatively simple move. It is bringing supply and demand issues under one board to develop a common strategy of policy. Demand is 50 percent of the problem. We all realize that now. Efforts to deal with drug abuse, to encourage the prevention of drug usage, to educate our citizens, to reduce the demand for drugs especially among the young, is an integral part of any national drug strategy. So, all of those now come under a common chairman who is designated as the Attorney General, and that makes a great deal of sense to me.

Senator THURMOND. Thank you very much, Judge. Again I want to thank you for the great service you rendered our country, not only as a judge but the magnificent work you have done as Director of the FBI.

Mr. WEBSTER. Thank you very much, Senator, I appreciate it.

The CHAIRMAN. Thank you, Senator.

Judge, I apologize for being late. I appreciate your being here.

Let me say that not only do I welcome you here but it is on a kind of somber note, too. This is going to be the last time you will be before us with regard to an authorization. I just want to say for the record I think you have been one of the truly fine, fine leaders we have had. I do not think anybody has ever come at a time when there was a need to restore confidence in an agency so critical to us and has done it with such dispatch and for the last 10 years. As I have dealt with you from this committee, I have never once had to ever question anything you have ever told me. I think you are one of the most honorable men with whom I have ever dealt.

We are sorely going to miss you. I mean that sincerely.

I expect we will be able to have you back on occasion in whatever new capacity you will serve in private or government life. I just want to begin today by suggesting to you that we truly appreciate the phenomenal service you have rendered this country.

That is not hyperbole. You have truly rendered a service that few others could have done at a time when this Nation was having grave doubts about an agency that it had come to trust so much and had learned to be suspect of so much. I want to thank you for all that you have done.

Mr. WEBSTER. I want to thank you, Mr. Chairman. It has been a tremendous privilege for me to have served in this capacity. It has enriched my life. I am so proud of the men and women who serve in my organization that it is a pleasure to come up and be able to report to you and to have your oversight on what we do.

The CHAIRMAN. I just hope, if we can be fortunate enough to pick so well a second time, the Nation will be well served.

The gentleman from Illinois.

Senator SIMON. Thank you, Mr. Chairman.

First, I simply want to associate myself with the remarks of the chairman. I do not recall having anyone suggest that you have been anything but both protective of the rights of the people of this country as well as the security of the country. I have not heard anyone at any point suggest anything but the finest public service on your part. I think that is a great tribute to you and is a tremendous service to the country.

Mr. WEBSTER. Thank you.

Senator SIMON. Let me, if I may, address a few questions. One is, in glancing through your statement—and this is not a major thing—I notice two references to illegal activities by motorcycle gangs. I cannot remember seeing that in the FBI message before. Is this a growing problem, or did I just happen to catch this?

Mr. WEBSTER. I believe that I have mentioned it before other committees if not this one. The outlaw motorcycle gangs have been coming up behind the traditional organized crime groups for some years, engaging in more petty forms of crime, although equally violent crimes, and have been heavily involved in drugs. For that reason, outlaw motorcycle gangs are one of the specific areas in which the national drug strategy will focus.

There are four or five major outlaw motorcycle gangs functioning in the country. There are a number of other smaller ones. They have a surprisingly large membership. I do think that for a society that prides itself on safety in the streets and wanting to deal with the problem of violence in the streets, they do continue to pose a serious problem. They have been used by larger organizations as enforcement arms, paid to do dirty work and instill fear and intimidation.

The organizations are crude in their way of doing business and in their private life style. They deserve continuing monitoring and effective investigation.

Senator SIMON. I thank you for that comment.

There was a report by a Mr. Frank Borelli, who claimed to be an FBI informant, who said the FBI was involved in break-ins; that was denied by your office. I guess one question: Was he really an FBI informant? The second question: Did you have a chance to examine the basis for his charges, and is there any substance to it at all?

Mr. WEBSTER. Senator Simon, he was a paid informant of the FBI. We have opened an Office of Professional Responsibility investigation into the charges that he has made. There are many inconsistencies in his own testimony that he has already given before the House committee.

Because what he is talking about has to do with a classified investigation, I would have to ask you to let me make any comments

strictly in closed session on that subject, other than to assure you that we are looking into his comments. We will deal appropriately with any of the allegations that are found to be based in fact.

Senator SIMON. Without getting into details, as far as his charges of FBI involvement in any break-ins, is there any substance to that at all?

Mr. WEBSTER. There is certainly no substance to anyone having authorized break-ins. I do not believe that they occurred. But I would not want to make that statement in advance of our having thoroughly explored his allegations to see whether there is any substance to it.

The CHAIRMAN. Would the Senator yield for a second?

Senator SIMON. Yes.

The CHAIRMAN. Judge, at the appropriate time, would you, after your investigation is under way and you feel you have had enough time to look into the allegations, be prepared in closed session to share that with this committee?

Mr. WEBSTER. Absolutely.

The CHAIRMAN. Thank you.

Senator SIMON. And then finally, Judge Webster, you mentioned working with other countries. Do you generally find other countries are cooperative in the work we are doing with them? Are there countries that are not providing the kind of cooperation that you should expect?

Mr. WEBSTER. Are we talking generally in the area of terrorism or in other types of international crime?

Senator SIMON. Either one.

Mr. WEBSTER. Well, I make that slight distinction because in most areas involving straight international crime or international criminals who are fugitives from justice seeking sanctuary in those countries, we are getting increased cooperation on a day-to-day basis. We are full partners in Interpol these days. There had been a number of mutual assistance agreements worked out between the countries: extradition treaties, as you know, because they have to come here. As a result of those initiatives, we are seeing more promptness and speed in assisting and making arrests and making those people available for prosecution. We are doing the same thing on this side of the country.

For a number of years now, that cooperation has been very important. I recall one time going to my office in the embassy in London and seeing some rare books that had been taken from the Harvard library that were being returned to the United States with British cooperation. We were in the process of returning stolen art located in Los Angeles that had been stolen from Great Britain. That kind of thing goes on on a daily basis; there is no question about it, I mean, no questions raised about it.

When you get into the area of terrorism, we have experienced in the past a rather insular look at the problem by various nations who are concerned that they not extradite or release for extradition freedom fighters, as distinguished from terrorists. So, we have been working for over 4 years to reach a common denominator as with respect to certain types of terrorist activity.

If you take a situation where acts of violence occur against innocent victims away from the scene of controversy, victims who have

nothing to do with the controversy themselves, such as in the *Achille Lauro* incident, for instance, clearly that is a crime. It is not a political act. The free nations ought to recognize it as crime. They ought to cooperate with other nations in bringing those individuals to justice, whether in their own country or by making them available for extradition to the country having or claiming jurisdiction.

That process has been moving forward. The United Nations has begun to take a part in it. The summit conference in Japan adopted a resolution. The International Conference on Crime of the United Nations in Milan, even the United Nations itself has adopted resolutions. More needs to be done. But within that framework we are getting cooperation. But it is far more sensitive.

The situation in West Germany with Mohammed Hamadei is illustrative of the sensitivity when it is complicated by hostages of both countries being held abroad. But the desire to cooperate is great.

In addition to that, the Attorney General has made substantial progress in persuading the members of the European Economic Community through the Trevi Group, the ministers of interior and the ministers of justice, to share intelligence more broadly, more multilaterally than it has been shared in the past.

I believe that is very, very important because you can sit in one place and not believe, say, the Libyans are changing their strategy when in fact they were. If that information had been shared collectively by the European community and with us, a clear pattern of change would have been evident and there would have been an entirely different reaction to our efforts to retaliate against Libya. So, some progress is being made, but it is not a clear picture and one that needs a lot more attention.

Senator SIMON. I thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Judge Webster, to follow on that, what impact have our recent dealings with Iran had on your ability to have these kinds of discussions with our allies?

Mr. WEBSTER. Well, it was confusing to them, and a great deal of effort since that time has gone into reassuring them about the firmness of our policy in dealing with terrorists and to make sure that this effort keeps on track.

I think most of the European countries recognize the importance of the U.S. leadership role in this area and for that reason have been less critical than they might have been under other circumstances.

The CHAIRMAN. Well, in my round I will come back. I yield to my colleague from Iowa.

Senator GRASSLEY. Thank you, Mr. Chairman.

Director Webster, I want to congratulate you, too, on your outstanding service as you near the end of your term.

Mr. WEBSTER. Thank you, Senator.

Senator GRASSLEY. I do not know whether this will be your last appearance, but it might be on the subject of justification of budget and stuff like that. So, I want to tell you that we appreciate your work.

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On the other hand, I suppose that we in the Congress are always saying we want to do better. So, I am not going to throw any surprises at you because you know that I have had a lot of interest in whether or not the law enforcement system protects the taxpayers' dollars.

Over the last decade we have had an opportunity to look at how that has been done. I think I have reached the conclusion that the protection is still not as adequate as it ought to be, even though there has been considerable improvement. And there has been improvement. In just the last few years there have been some major breakthroughs and some notable prosecutions.

In the FBI's case I am aware of and have been impressed by a series of contractor kickback investigations in California that produced a number of indictments and convictions. So, perhaps a snapshot assessment of today's law enforcement effort, in my view, would go something like this: progress is very evident but we still need more work.

Now, I see by the FBI's budget request and also by your testimony that you probably share somewhat a general consensus that it needs more work. I do not want to put words in your mouth, but I think that that is what I read from it. Now, along that line you are asking for forty-two eight——

Mr. WEBSTER. That is right.

Senator GRASSLEY [continuing]. In the white collar crime unit, or that program. Would you outline for us with a little more detail how you would plan to use these resources towards combatting fraud against the Government?

Mr. WEBSTER. Our first priority in the white collar crime is major frauds against the Government with frauds in the Defense Department at the top of that category. In the last few years we have discovered a disturbing number of high-dollar bank frauds and embezzlements and bank failures under circumstances that implicate criminal laws. The Economic Crime Council has now raised bank fraud and embezzlement to the same level as government fraud in their own concept of priority. So, we would balance those additional personnel in those two categories: major frauds against the government and major bank frauds and embezzlement. The ripple effect of a major bank going under, as you know, can be horrendous to smaller banks and others dealing with those banks, and citizens. It is important that we deal with that as well as the kickbacks and the ripoffs.

Senator GRASSLEY. I would like to have you think in terms, while I ask my next question, of the investment we make in fraud agents and the extent to which, you know, they pay for themselves, plus more than pay for themselves. I for one would be the first to say that protecting all our taxpayers' money is not a very simple job. You have got a very tough job ahead of you.

Of course, in these days of trillion-dollar budgets and just in the defense area alone we are spending $600 million today, tomorrow and every day thereafter, and that is a heck of a lot of money to protect. Of course, sitting on the Budget Committee, I have got to be concerned about budget constraints. We have seen a lot of red ink there. So, any agency request for more money has to go under strict scrutiny, and that would include your request here.

In the case of the Government fraud investigators, do you have any statistics which would show what the taxpayer's return is? Or let me put it another way. Is there any evidence that these agents will return more money to the Treasury than what we pay out to support them?

Mr. WEBSTER. Normally I resist equating the dollars returned or dollars saved because I thought in the earlier years we did that with single automobile theft recoveries and I did not think it was necessarily the best way to spend our money. I thought you would judge us by a little different measurement. But I do think in the white collar crimes it is a very—because you know that we are working in top-dollar figures, that we are not working penny-ante cases. They are sometimes very significant cases, and we should give you those figures.

Fines have gone, in 1983, from $15,600,000 to $20,721,000 in 1985. Recoveries have gone from $347,682,000 to $551,977,000 in that same period.

We have another figure that I just prefer not to use, and that is potential economic loss averted.

Senator GRASSLEY. Could you just summarize? Do they pay for themselves or do they more than pay for themselves?

Mr. WEBSTER. I have not measured these figures against the individuals working on it, but I am confident, and I can follow up with a statement for the record, that they more than pay for themselves in this area.

We are working closely with the Department of Defense fraud unit. We have permanent liaison on that unit so that there is a sharing operation. I am not sure we can break out what the FBI did by itself and what the Defense Department did by itself, but I will undertake to do that.

These dollars are so enormous that I cannot imagine that we cannot demonstrate to you the cost-effectiveness of the activity. But even more than that, the loss of banks that are federally insured, if these frauds go undetected, could be astronomical.

Senator GRASSLEY. I thank you for that.

In the area of organized crime and drug enforcement, agents and prosecutors have coordinated their efforts with a regional task force approach. From what I found out, this approach has been fairly successful. Could you comment on what benefit you have seen of having specialized units located around the country?

Mr. WEBSTER. The major benefit for the organized crime drug enforcement units is to have the capability to identify and bring to bear the full Federal resources on drug activity that implicate more than one agency. Without the OCDE's, we probably would have no more than a couple of joint types of drug investigative activity. With the drug enforcement task forces, some 13 in number, we are able to bring together the expertise and the resources of all of the agencies that are involved in drug enforcement. We share intelligence, share resources, plan strategies, and do an overall more effective job.

It is not something that can be applied or should be applied to every drug investigation, but there are many that involve issues that go beyond the jurisdiction or the expertise of a single agency. And that is its primary benefit.

Senator GRASSLEY. My last question is a followup of that. In light of the successes that you have seen in the regional team approach in other areas, do you think that such an approach could be also very effective in the Government fraud area?

Mr. WEBSTER. There are a number of joint economic fraud teams functioning throughout the country. There are a number of new instances with new legislation, such as the money laundering legislation, that will call for joint activity. I think that to the extent that you see an express need, an express benefit, then I favor the joint task force approach. I do not favor it just for its own sake. I think the particular problem should be identified as one involving a number of disciplines and then bring those disciplines to bear on it.

Senator GRASSLEY. OK. I guess we have found that, you know, in the Government fraud area where we can use more prosecutor support and more procurement expertise——

Mr. WEBSTER. Right.

Senator GRASSLEY [continuing]. And agency coordination, we found that to be a major problem. It seemed to me like that solved this teamwork approach, it seemed to me like it fit very closely with the problems we have in protecting the taxpayers' money from fraud.

Mr. WEBSTER. I agree, Senator. It is the kind of innovative approach that has to be tried. And then if it works, fine; if it needs improvement, fine; if it is not working, go to something else. But it deserves our efforts, our cooperative efforts.

Senator GRASSLEY. Thank you.

The CHAIRMAN. Thank you.

I will yield to the Senator from Pennsylvania, because I have got a lot of questions later.

Senator SPECTER. Thank you, Mr. Chairman. I have one subject that I would like to broach with the Director. I join in the congratulations, Director Webster.

Mr. WEBSTER. Thank you.

Senator SPECTER. You and I have worked together a great deal, and you have done exemplary work; the rest of the committee has already turned your head on that, probably sufficiently.

I might not just parenthetically that your administrative assistant, Nancy McGregor Manne, and my administrative assistant, Neil Manne, share the same last name and other things. There is the potential for conflict of interest. I am reminded of the story about the questions and answers being in sync from a Senator and a witness. Since my questions are not prepared, and certainly your answers are not, we do not have that potential for conflict.

The one subject that I want to broach with you—and I do appreciate the Chair's permitting me to proceed at this time—relates to the subject of apprehension of terrorists overseas through the extraterritorial jurisdiction of the United States. You have made a number of references in your opening statement concerning this matter, recognizing terrorism as a criminal matter rather than a political matter. You made a comment about the use of the new extraterritorial jurisdiction to keep our procedures, I think you said, on the cutting edge but within the rule of law. Those are objectives that I totally concur with.

In the 1984 Omnibus Crime Control Act we extended extraterritorial jurisdiction in hostage taking and in hijacking cases and then the legislation passed last August makes it a violation of U.S. law to maim, murder or assault a U.S. citizen anywhere in the world, legislation I had initiated to fill the gaps on the Rome and Vienna airport killings. We have had a number of discussions on the record on this subject with Attorney General Meese and Secretary of State Shultz really in trying to develop an approach here. I had an occasion to question Secretary of State Shultz going back a couple of years. But about a year ago on March 13, 1986, on the subject matter of using arrest warrants overseas in a procedure which has been upheld by the Supreme Court of the United States for about a century from *Kerr* v. *Illinois* and more recent Supreme Court decisions, one of which was handed down by Justice Black, the question that I asked the Secretary of State—and this is the fastest way to put it on the record—quote:

> My question to you is this: would you support an approach which would seek to take a terrorist into custody after warrants of arrest had been issued based on statements of probable cause as indictments are now pending against three hijackers of the TWA plane, would you sanction the use of some moderate force to take terrorists into custody in remote parts of the world to bring them back to the United States for trial?

The Secretary of State said, "Yes, sir."

The same question was put to Attorney General Meese in hearings before this committee on April 29, 1986. He agreed with that approach.

I would like to know your general views on using the extraterritorial jurisdiction in a very careful manner with a minimum of force in a way which did not start a war and injure innocent people but with those kinds of safeguards.

Mr. WEBSTER. I think first that the legislation was important because the legislation reflected a congressional purpose to deal with international terrorists who are attacking our citizens abroad. It requires us to conduct an investigation as soon as possible, to develop the evidence to support an arrest warrant or an indictment. And that, of course, requires that we do it with the cooperation of the host countries, where the evidence can be obtained.

Congress did not give us the right to go into another country. It simply made it a Federal offense to commit an act abroad against U.S. citizens under the circumstances that you have described. This requires that we have the cooperation of the host country if we are dealing with one of our friends especially.

We have, in fact, conducted investigations in Italy and in other locales where terrorist activities have taken place, with the full cooperation of the host country. But we do it by their invitation. We are allowed in at their pleasure.

I mention that only because in differentiating between the kinds of activities that we can engage in, we have to keep in mind the need for mutual respect and cooperation.

Our courts do not particularly concern themselves with how a fugitive is returned into the physical jurisdiction of the United States. I want to be very clear on that. That is not really my concern. I think if they can come back here by whatever means, they can be tried here. They have no right not to be kidnaped or no

right not to be brought back in any particular way, so say our courts.

But my concern can be best illustrated—I will tell you my view, my considered view. If we can get an arrest warrant and it can be executed and returned under an extradition treaty, we should do it, in every case, unless for some reason we are satisfied that the host country can and will try the terrorist as well or better than we could do, based on the evidence available to them and to us.

If it involves going into an area such as Lebanon, where there is no government, then I think it becomes a logistical problem and not a legal problem: can we do it successfully? And it becomes a policy problem with respect to the consequences of doing it—in terms of potential reprisals. But I believe that when you enacted the legislation, you took into account the possible costs that might occur and felt that the costs were worth paying in order to deal effectively with terrorism. So, that is really not a consideration.

The troubling area is in the question that sometimes comes: should we kidnap a terrorist from a country with whom we have established diplomatic relations that we wish to continue? I think that is a far more troubling one, to me, not because of the legal issues involved in whether or not they can be tried but in what kind of array that leaves our relationships at all levels, both at the diplomatic level and at the law enforcement level, where we depend upon close cooperation with our law enforcement and intelligence counterparts in those countries.

I cannot really see us kidnapping someone from a country with whom we have that kind of relationship. Now, it is further complicated, Senator—and I hope my answer is not too long, but it has to be a considered answer—is further complicated by those situations which sometimes occur in which the law enforcement agencies will say, we will look the other way and you can have him, but of course we will protest; we will object after you have taken him.

I think that puts our government on quite a spot, not only in that country but in other countries which are watching. There have been a few incidents that have occurred, I do not need to particularize, where ambassadors of smaller countries have come to me in this country and said, would you do that in our country? And the real concern about our relationships, so——

Senator SPECTER. They say, will you do that in our country——

Mr. WEBSTER. Would you, would you do that in our country?

Senator SPECTER. They are asking whether you would be that intrusive——

Mr. WEBSTER. Yes.

Senator SPECTER [continuing]. Not as an invitation for you to do it.

Mr. WEBSTER. Yes.

So, I think if we keep in mind the importance of those relationships, it sort of guides us in how we go about it. There have been a number of opportunities that we have had to do that, and we have stayed away from that. We have had other opportunities where one agency of government or another has been able to lure a fugitive into a place where we could take control of them, as in the *Wilson* case, for instance. I have no problem with that. But I do not think we should send a signal to our cooperative allies that we would feel

free to conduct activities of that nature unilaterally without their support and approval.

Senator SPECTER. Judge Webster, I agree with you on the issue of our allies where we have extradition treaties and where we have normal processes of law. And I think you have made a good distinction, one that I would agree with. I think the testimony which has been given by Secretary Shultz and Attorney General Meese and Judge Sofair, legal advisor to the State Department, would agree with the position which you take and which I agree with, that we are really looking at situations like Lebanon, where there is no existing government, or at situations where they are unfriendly countries, where they harbor terrorists, and are not looking at situations where we have friendly relations. But you do think that in a situation like Lebanon, as you have testified, or perhaps unfriendly nations which harbor terrorists, where there could be a surgical strike, with moderate force and without running the risk of starting a war, that it is a procedure which is worth considering for use?

Mr. WEBSTER. I think it has to be considered. But I think there are many other considerations including the views of our allies, and there is an educational process there, that have to also be considered because of policy questions. It becomes a logistical one: is it possible, what are the costs, what are the potential reactions? If they are worthy, then there is no legal reason why we cannot go about it.

Senator SPECTER. Well, when you start to consider the views of our allies, that is another ingredient. I am not saying that we should not consult. We should make them aware as to what we are trying to do. But in the *Achille Lauro* case, which you cited, the Navy plane forced down the Egyptian airliner. There were six hijackers, six terrorists. The United States forces had the opportunity to arrest, and our forces stood aside in the face of, really, Italian resistance. Then the Italian authorities let go Abbis Abdul and the other key ring leader. They kept the four lesser terrorists. Then much later they issued a warrant of arrest for Abbis Abdul when they did not have him any longer.

I had an opportunity to discuss the matter with Prime Minister Craxi and asked him about it directly. He said, well, they let him go because they were entreatied to do so by Mubarak and other Arab leaders. That may be what they choose to do, but that is not a very good reason from our point of view.

Mr. WEBSTER. No, I did not mean to suggest that we need ally approval or that they have to always be informed. I think it is a policy judgment that has to be made, and each one has to be taken on its own. But I do think we have to take into account in our own considerations the implications with respect to our allies.

Senator SPECTER. I would ask unanimous consent that an opinion from Commander E. Anthony Fessler of the Naval War College on extraterritorial jurisdiction be included in the record at this point, Mr. Chairman.

The CHAIRMAN. Without objection.

[The material can be found in the March 4, 1987 hearing, J-100-1, Part 1.]

Senator SPECTER. I would close with a reference that he makes on the four factors used under international law, self-defense for apprehension of terrorists outside the jurisdiction. He makes a reference to the fourth requirement for proportionality and makes the point about the, as he says: "extraterritorial apprehension would certainly have far more focused objectives than direct military strikes of the type conducted in April of 1986," referring to the one against Libya.

Without getting into the merits of the Libya air strike, the point which Commander Fessler makes and others have made is that the use of directed surgical strikes to apprehend terrorists involves much less force than does that kind of an air strike. If you are looking for a weapon to combat terrorism with minimal use of force, which we are always seeking, that the approach of apprehension has much to recommend it.

Mr. WEBSTER. I certainly would not want to hold myself out as an individual expert on surgical strike procedures, because I am not.

The one view that I have consistently held, however, is that everything the United States does must be legitimate and, if possible, seen to be legitimate. If we do things overseas in order to combat terrorism, we should be prepared to stand up and say, when it is over, this is what we did, this is why we did it. It should not be something that we lay off on some other potential actor or some other excuse for having taken it. If we cannot satisfy ourselves that our action is legitimate, we probably should not take it.

Senator SPECTER. Judge Webster, I agree with that totally.

My final statement is that it is a matter of education. It is a matter of the development of a concept and then discussing it and describing it. I think this discussion is very useful. I would like to pursue it at some length, but I do not want to keep Senator Biden, the chairman, waiting any longer.

But we have had record discussions now in a limited way with Secretary Shultz, Attorney General Meese, Judge Sofair, yourself today, and others. People were surprised to hear about *Kerr* v. *Illinois*, about the legality of apprehensions.

I think the word kidnap is, frankly, too harsh. I think it is more appropriately categorized as an arrest. It is legitimate extraterritorial jurisdiction, something that has to be used very carefully. But this terrorism problem is overwhelming. We are going to have to develop procedures to deal with it. And the less force we use, the better, consistent with an objective, but within the rule of law and standing up and identifying what we have done and taking the reponsibility for it.

Thank you very much.

Mr. WEBSTER. Thank you.

The CHAIRMAN. Thank you, Senator.

Judge Webster, it seems to me that by the early part of the 21st century we are going to be writing about how there was a new act of war between nation-states and among nation-states, and it was terrorism. Just as we had to adjust to undeclared wars after World War II. I think we are going to find that terrorism will take on an entire new dimension, and in terms of how civilized as well as uncivilized nations treat it.

I would only note that with regard to the *Achille Lauro,* we were understandably angry and confused by the Italian action. But it seems to me that you and others of our leaders are going to need an awful lot of time to recover from what we did in Iran to in any way be able to point a finger at the Italians. They have real terrorism. Their leaders get shot. Their airports get blown up. And they have responded to pressure on occasion. I think that you have a difficult job in light of what we unraveled over the last several months.

The CHAIRMAN. I will take about 15 minutes now, and then I will yield to my colleague from New Hampshire. Then I will come back with additional questions.

Let me start off with a question that is not specifically a matter of the authorization but has to do with the manner in which you will be replaced. Have you discussed with the Attorney General the role you will play, if any, in the selection process of your successor?

Mr. WEBSTER. Well, I have discussed that subject with the Attorney General and have been having discussions on and off for over a year on that. He has some thoughts on it, and I have given him the benefit of mine, such as they are.

The CHAIRMAN. Are you able to tell us whether or not you will be actively involved in the process?

Mr. WEBSTER. Well, the Attorney General has suggested that I ought to be. I am not sure that I ought to be. I think that sometimes when you have something to do with that process beyond giving an opinion, why, you carry too much weight on the group that is doing it. So, I think I would prefer to give my thoughts to the Attorney General and be available to respond to questions rather than to be actively involved in any search activity.

The CHAIRMAN. Do you agree that the President should avoid selecting someone that has been a longstanding political ally or aide of the President?

Mr. WEBSTER. Well, I think that is a substantial impediment to the direction in which the FBI—we have been consciously trying to send the FBI, keep it moving in a—disengaged from the political process for example, different time for appointment, different term, serving through Presidential administrations rather than automatically being changed and suggesting that it is some kind of political enforcement arm of a political party or a particular political leader.

I do not think someone who has served as a close friend of the President is necessarily disqualified from it, but I think it is an impediment that would have to be seriously considered.

The CHAIRMAN. For the record, I would remind everyone that when you were appointed you not only had not been involved politically with the President, if I am not mistaken, you were a member of the opposite party. Is that correct?

Mr. WEBSTER. Well, I was on the bench, so theoretically I was not a member of anything at that point. But my origins were of the opposite political faith, that is true.

The CHAIRMAN. What kind of background do you believe the new Director should have, in general terms?

Should he or she be someone promoted within the Bureau, or should the person come from outside? Should they have law en-

forcement experience? What is your sense of having been there now 10 years?

Mr. WEBSTER. I do not think, Mr. Chairman, I have any right answer to that one. I have done my best to develop an organization with qualified individuals who could be selected from within. I have also tried to create an environment in which if someone comes from the outside, they would find friendly and supportive and upfront and candid executives to help them do their job.

I do not know there is any clear answer to that. I think the one thing I would hope is that whoever is selected is one who has a very firm grasp of the requirements of our Constitution, who sees the FBI as within the law and its mission to uphold the law. And you uphold it not by being outside it but by being inside it and demonstrating by increased professional capacity your ability to function within the rule of law.

The concepts of law and decency change in this country. Many things have happened, I do not need to particularize them, which seemed normal at the time which today would be viewed as outrageous in terms of police conduct, in terms of civil rights, in terms of many other things.

An organization like the FBI has to be tuned in to those directions and be ready to conform to emerging standards of decency with better professionalism and not resist it or be static.

So, I think if we have that kind of person—and there are a lot of them in the country—the organization, the expertise, the can-do attitude, are all there waiting for him.

The CHAIRMAN. Judge, I happen to agree. I fully subscribe to what you have just said. Let me ask you whether or not you think your successor should be someone who is not particularly controversial or ideologically oriented either way. How important is it in your view that there be a broad acceptance along the political spectrum of whoever it is that is your successor? Is it a liability if the President appointed someone who was clearly identified with one end of the political spectrum or another?

Mr. WEBSTER. I think a person has to be broad gauged. There are just an awful lot of issues, a lot of constituencies. We serve the whole country. We do not serve a particular mission other than to uphold the law and to carry out the laws as Congress gives them to us.

So, I do not really want to buy into the question because that is a matter of degree one way or the other. But I think if you can answer the question, is that person broad gauged in his view of his responsibilities, you have come out all right.

The CHAIRMAN. One of the most troubling things I find as chairman of this committee and in my capacity before as the ranking member is that it is one of the requirements, just as were your days on the bench, when you sit up here you are constitutionally required to be judgmental. And it is not a comfortable position.

Clearly under our system, a person is innocent until one is proven guilty, notwithstanding what occasionally is stated by others in authority. What I find the most difficult is when a woman or a man is before us, where there are troubling questions raised about their ethical standards, and you find yourself in a position sitting here having to make two judgments: one, are the ac-

cusations accurate, and, two, even if they are not accurate, has the person been so affected by the publicity that they will be in a position of doubt and confidence levels diminished? We have had women and men wrongly accused of conduct that was, if not illegal, unethical. And yet after they have gone through the whole process they have been tainted by it. It is not fair but it does impact on whatever office they tend to be aspiring to.

Is it important that the next nominee be beyond reproach in terms of ethical considerations? Is that an important consideration for the Director of such a powerful agency?

Mr. WEBSTER. I think I understand the question.

Naturally you hope for that. I do not know that that is the kind of thing that we can develop out of our background investigations to any degree of certainty. There again I think it is something that the appointing authority should try very hard to satisfy himself in his own mind that he selected that kind of person to the best of his ability. And of course, it is your function to advise and consent on that issue.

The CHAIRMAN. Well, we do not often get asked for advice these days, but my unsolicited advice is, whoever your successor is, he or she should be a woman or a man who in fact does not come with a lot of baggage and is not politically connected nor are they particularly controversial in terms of their ideological disposition.

I agree with you, they must be broad gauged, and it is important that we follow on the last 10 years of success. I think you would be an appropriate model to follow.

You cannot comment on that, I know, but I mean that sincerely. You have a sense of history, a clear understanding of the Constitution and a strong dedication to law enforcement. All of them are compatible, not incompatible. And there are many women and men out there who share those same instincts and have that same capacity. I hope that is who we are confronted with as the next appointee.

Let me ask you one more question about your successor, whoever he or she may be.

What do you think, after your years at the agency, are the most pressing issues the next FBI Director will face as they lead the Bureau into the 1990's?

Mr. WEBSTER. Well, there are two things that are sort of interrelated that I think come immediately to mind. I am sure I could think of other things down the road. But I believe the criminal enterprise continues to be the major threat to the quality of life in our country and in our communities, whether it is expressed in terms of terrorist groups or hostile intelligence officers functioning in this country, or organized criminal gangs, rings, La Cosa Nostra, or groups that conspire together to engage in major white collar crimes.

It is also true in the public corruption area, where we have multiple parties participating together in sophisticated ways. Local law enforcement has not in general been equipped to deal with this kind of problem. So, we have to have the skill, the expertise, the resources and the techniques to be able to identify those criminal enterprises and build cases that not only take off the low players but reach the very top of the enterprise.

Now, there is a second consideration that you asked me about, and I think it ties into this because most of what I am about to say are in the enterprise area. That is the increasing internationalism of major crime. We are finding again and again that major criminal actors are roaming the countries of the world, passing their money through various countries, bank accounts, lock boxes. It is going to require a lot of cooperation at an international level. And that means high standards of law enforcement around the world. We have to be prepared to assist in that and be part of it.

The CHAIRMAN. I am prepared to yield to my colleague if he is here.

Is the Senator from New Hampshire on his way?

Senator HUMPHREY. Thank you, Mr. Chairman. I was speaking to a reporter back home.

Judge Webster, in your testimony you note that the FBI continues to enjoy an increase in personnel and material resources in support of our foreign counterintelligence. Further, in 1986 three individuals were arrested on charges of espionage.

Is that represented as good performance? I mean, three out of how many thousands who are operating here?

Mr. WEBSTER. Probably in the summary remarks I hope my full statement is a little more expansive than that. We were trying to keep it brief in the summary statement.

The function of our foreign counterintelligence efforts is not alone to arrest spies. It is to identify hostile intelligence activity in the country, to penetrate that activity and to neutralize its effect against this country. That is a massive challenge for dealing with professional hostile intelligence officers who are acting covertly in this country.

I do not know that mere numbers of arrests prove anything at all. In the last few years since 1984 we have arrested more intelligence agents than at any time since World War II, when they were very active in this country. It reflects instead some of the activities that are taking place.

In terms of the technical coverage and the human surveillance, I believe that we have been exceedingly effective by comparison with past activities.

Our strategy is to focus on the enemy. We cannot identify or keep track of the 4,000,000 people who have access to classified information in this country. But we can keep track of the places where hostile intelligence officers function. We do that with our facilities, and I think we do it very well.

It is a difficult, demanding, bit-by-bit, piece-by-piece undertaking. I believe that our analysis of intelligence, the computerization of intelligence, the utilization of that intelligence to result in either expulsions, arrests or disinformation, if that is appropriate, to confuse the hostile intelligence efforts, have become increasingly effective.

Again I realize I am getting close to the line on classified information, but we measure that by a lot of things that take place in this country, including the number of meets that are taking place outside the country rather than in the country.

It is having an effect, and if you want me to go into more detail, I would rather do it in closed session.

Senator HUMPHREY. Well, getting back to arrests again, I recognize that it is only part of your total counterintelligence effort. Still, I am struck by the small number of arrests.

How many thousands of spies, just from the Communist bloc countries do you estimate are in the United States, operating in the United States?

Mr. WEBSTER. Well, I have to fall back again on figures that are on statements that are not classified. But roughly one-third of the Soviet bloc nationals are present in this country on diplomatic assignment have had or are known to have intelligence responsibilities.

Senator HUMPHREY. How many would that be roughly?

Mr. WEBSTER. Well, I am just afraid I am getting into classified information, and I am not certain about it. And I would rather err on the side of giving you a later report.

Senator HUMPHREY. It must be in the thousands, is it not?

Mr. WEBSTER. They have to violate a law. We have to identify who they—they are over here, not necessarily recruiting—not necessarily successfully recruiting, but working.

Some of those, for instance Zakharov spent 4 years recruiting two students on an American campus. So it is that kind of activity that we have to be able to detect. I would not be concerned about—the number of spies is not like the number of car thefts.

The fact is that we are making arrests. That is the significant thing. We are not just kicking them out of the country. We are arresting and holding them for prosecution, which is a change in the last 10 years.

Senator HUMPHREY. But you only arrested three. That seems like a mighty small number to me.

Is that deliberate? Do you deliberately avoid seeking arrests and continue to observe these?

Mr. WEBSTER. Sometimes. Again, I do not want to say too much in an open session. But I think it is just a matter of logic that sometimes it is better for us to know, have identified and know what a spy is doing than to be wondering who his replacement is. We have to make that judgment. And we do.

If you want to talk about successes, in the overall program, the expulsion of 75 Soviets to reduce the Soviet presence in the United States came as a result of intelligence developed by the FBI and submitted through the National Security Council and through the various intelligence agencies. When the President accelerated the departure of the first 25, and they were not on time, the FBI had an opportunity to designate known or suspected hostile intelligence officers to go. And then, with the succeeding events that followed, another 75—rather another 50 went. Not just any old 50.

The effect of our intelligence, the information that we had gathered relative to those people made one of the most significant assaults on the Soviet apparatus that I believe in the history of the country.

Senator HUMPHREY. I am familiar with that.

For reasons of time, permit me to interrupt you there.

However, on that same subject, have you had some requests from the State Department to acquiesce in the readmission to the United States certain of those expelled diplomats?

Mr. WEBSTER. Yes, we have.

Senator HUMPHREY. How many?

Mr. WEBSTER. Well, not for the readmission. We have had—that go through the visa process of who is going to come back in and whether we are going to let spies back into the country to replace old spies or not.

Senator HUMPHREY. Why in the world does the State Department want to readmit diplomats who were expelled because they were thought to be spies?

Mr. WEBSTER. No, Senator, I did not say that, readmit. I do not believe that there have been any that we have been asked to readmit.

Senator HUMPHREY. But the State Department has asked for FBI acquiescence in the issuance of a visa for some of these people?

Mr. WEBSTER. Not for some of the people who have been expelled. But for new people coming in.

We have a process, and I really think if you will permit me, I would be glad to discuss this in a closed session. But we have a process by which the FBI can object to a proposed visa, on intelligence grounds, national security grounds, and then we have a process by which if the State Department is not happy with our decision on that, we attempt to work it out. If we do not work it out together, then it takes another—goes to another level for determination.

Senator HUMPHREY. Fine. But you cited the expulsion of how many diplomats are we talking about in that bunch altogether?

Mr. WEBSTER. Senator, diplomats who are expelled or diplomats who are here? I am not sure I understand the question.

Senator HUMPHREY. Six months ago, there was a bunch of Soviets kicked out.

Mr. WEBSTER. Yes.

Senator HUMPHREY. How many were there?

Mr. WEBSTER. How many? There were 75 expelled. Well, there were 75 who were designated to leave. I do not know whether you would call that an expulsion. It was a reduction in force.

Senator HUMPHREY. They are gone?

Mr. WEBSTER. They are gone.

Senator HUMPHREY. Seventy-five.

Mr. WEBSTER. And they can backfill five of those under the—it is a complicated process. They expel five, we expel five, they can backfill on those five.

Senator HUMPHREY. Of the 75, from among the 75, has the State Department requested the FBI to acquiesce in the granting of visas for any of those?

Mr. WEBSTER. Who were sent out in the first place?

Senator HUMPHREY. Yes.

Mr. WEBSTER. I do not believe so. If I am wrong, I will correct that.

Senator HUMPHREY. Have you read those news accounts to the effect that the State Department was seeking to readmit some of those who were expelled?

Mr. WEBSTER. I do not think I have seen the news accounts, but I will verify, and if there is any error in my testimony, I will correct

it. But I am not aware that they are trying to bring anybody back who was sent out under the Presidential orders.

Senator HUMPHREY. Mr. Chairman, may we ask for a written response to that question?

The CHAIRMAN. Yes.

Senator HUMPHREY. I would like to ask about the Soviet Embassy, the new Soviet Embassy in Washington. Has the FBI reviewed—has there been any recent FBI review of the intelligence threat to our Nation from the location, the elevation of that embassy? Is there a recent review of that, or is that now an accepted thing, no longer being reviewed?

Mr. WEBSTER. Again I respectfully would prefer to discuss this very sensitive issue in a closed session, but this is not something the FBI is not paying attention to.

Senator HUMPHREY. Is anybody listening though is the question?

Mr. WEBSTER. I hope so.

Senator HUMPHREY. Are we going to have a closed session, Mr. Chairman?

The CHAIRMAN. If you wish a closed session, we have done it before. Judge Webster indicates he is prepared to brief us on that. We can make arrangements for that.

But, Judge, anything you think should not be said in open session obviously will be honored here.

Senator HUMPHREY. Well, can we just follow it at the termination of today's regular procedure?

The CHAIRMAN. No, we cannot today. Judge Webster is scheduled to leave at 2 o'clock, but we can make arrangements to do that later.

Senator HUMPHREY. I think the balance of my questions would elicit the same response so I guess I am finished.

I thank the Chairman. And I thank the Director.

Mr. WEBSTER. Thank you, Senator.

The CHAIRMAN. Judge, I would like to talk a little bit about drug coordination and preface my questions by making sure I understand the way in which the agency presently takes care of its own budgeting decisions. I want to make a comparison here.

As I understand it, in developing the FBI's budget, each field office chief comes to D.C. to testify before an Internal Budget hearing chaired by an Assistant Director. Then the Assistant Directors do the same before you, the Director. And if I understand it correctly, this process is one of the reasons why the agency has run as well as it has.

Is that the process by which you arrive at the FBI's budget?

Mr. WEBSTER. Yes, that is substantially the process we use.

I am going to say we are given certain base guidelines from the Department on which to work. So we have our wish list, but we know the real world that we are living in when we do this.

The CHAIRMAN. Does the wish list appear after the process—in other words, do you bring in your field people to come before your Assistant Directors and then they come before you, and then you confer with the Department as to what among those priorities will be funded.

Mr. WEBSTER. Well, generally, we go forward with what we think we need. And we make each official who thinks he needs it to justi-

fy it to our satisfaction. Then it has been our general practice, notwithstanding the parameters of what the Department has said will bind us, to go over with what we think we need. And then try to thresh out the differences between us.

The CHAIRMAN. That was my understanding. I think it is a logical and sound budget practice. And I think it is the reason the Bureau has been so successful under your tenure, in large part, has been due to this central oversight from headquarters.

Yet, what confuses me, is that I have been attempting to convince all of you responsible for drug control to adopt a similar process. Yet you are opposed to my legislation which would provide strong central oversight to this program.

Do you, in your capacity as Director, ever have to appear before the National Drug Enforcement Policy Board to justify the Bureau's narcotics budget? A portion of your budget deals with narcotics. Do you have to go before the National Drug Enforcement Policy Board to justify it?

Mr. WEBSTER. I do not believe so. No. The fiscal matters have not come to the attention in that degree with the Policy Board, although I do not think there is anything to preclude it. I am a member of the coordinating group, which is the next level down from the Cabinet level members of the Policy Board. We confront a number of strategies and policies. But we do not currently analyze each other's budgets.

The CHAIRMAN. The current Drug Policy Board is composed of a 10-member Board, as you know. Do you think you could be as effective in your agency if you operated the same way?

The agency works well by taking all these disparate requests and coordinating them, and yet we have this National Drug Enforcement Policy Board before whom no one has to justify their budgets in a specific sense. That Board does not then make budget priorities.

Mr. WEBSTER. Some of the most expensive equipment is applied for in that area, interdiction and intelligence identification. And there becomes some tension, for example, between the Coast Guard and the Customs—I will keep the FBI out of this—as to who should have what planes and what kind of planes.

The CHAIRMAN. We are familiar with it.

Mr. WEBSTER. The coordinating group and the policy, ultimately the Policy Board would attempt to resolve issues of that kind.

The CHAIRMAN. Well, last year, the FBI published a very ambitious national narcotics strategy. You targeted all the major drug groups in that strategy. Your budget, despite the targeting of all these major drug groups, asked for only a $2 million increase for your drug enforcement and organized crime program.

Is that enough to implement this strategy which you lay out, which targets all these groups?

Mr. WEBSTER. I can only respond the way I have always responded to that, Mr. Chairman. We are grateful for all we can get.

The CHAIRMAN. Well, I am going to try to see that you get more because I do not think $2 million is anywhere near enough. There are at least 25 major, La Costa Nostra and Sicilian Mafia families, there are numerous South American and Colombian groups; there are many major Mexican syndicates, and how many of these fami-

lies or syndicates would we have to dismantle before we started to see any impact on the street in the drug process? I mean we would have to make a hell of a dent, would we not?

Mr. WEBSTER. Yes, we would.

The CHAIRMAN. My problem, Judge, is not with regard to intentions on the part of the FBI or DEA, or any other agency, but it is very hard for us to measure whether the strategy works. One of our requirements as a policymaking group is to have some means by which we measure what is being done, working or not working: what is effective?

You have been very effective in a number of areas. I think the work that you have done on organized crime, particularly in New York and the family you put in jail with sentences of a hundred years for some defendants. Some of that is from the investigation that began 10 years ago.

So I am not being critical of that. But it seems to me that you have been targeting many of the same drug trafficking groups since the FBI began investigating narcotics cases in 1982. Since then, 5 years have elapsed. I have not seen any strategy that has been changed.

Have you targeted all of the major crime families, South American, Latin American, Mexican, Italian, et cetera? Are they not all part of the target that you state?

Mr. WEBSTER. They are part of the target, but we adopted the expression that you quoted, that your father gave you, and we have made the decision as a part of our strategy to focus on those major drug trafficking apparati that affect our country the most.

The CHAIRMAN. We are talking about 25 different groups, are we not?

Mr. WEBSTER. But we are looking at it more in terms of the way in which they operate and from where they operate.

We have primary focus on the heroin traffickers who deal largely through the traditional organized crime groups and through the former—the Sicilian group, the Battalmente crowd who just got convicted yesterday. We are focusing on the South American, Central American, and Colombian cocaine cartels, and the Mexican trafficking which includes both heroin and cocaine. Those are our three principal areas of focus.

We recognize the work of the outlaw motorcycle gangs and some of the Oriental gangs in bringing narcotics into this country, or at least in distributing it after it is here. Our effort is to build up a much better intelligence base on those operations.

We have already identified the trends and the means of distribution so that the deployment of our resources will be in those first tier and second tier cities where we know that those three groups come first and go. It is a consistent pattern, almost no exceptions.

So we are now, on the basis of 4 years of experience into this, we know where we have to deploy our resources.

In addition to that, we are helping the local law enforcement people around the country improve their forfeiture capabilities in providing forensic laboratory fingerprint assistance to make sure it is working.

All of this is compatible with the Drug Enforcement Administration's effort. Our primary effort tends to be in organized crime and

drugs, in financial crimes and drugs, and probably corruption in drugs, and I think that is what we do best.

Much of the strategy is taken from our experience in organized crime. It will require you to let us work it through because it is not going to happen tomorrow.

We have the pressures that you could expect from local cities that are fearful that we are going to leave them unprotected. We are not. But we are going to take the additional resources that come to us and put them where they can be most effective. I believe you will begin to see the same kind of successes on the supply side that we have experienced with organized crime in other areas.

The CHAIRMAN. I would like to move to discuss your relationship with DEA and your recommendations, but my colleague from Massachusetts has come in, and I will yield to him now.

Senator KENNEDY. Thank you very much, Mr. Chairman.

I too want to join the other members of the committee in welcoming Judge Webster, the Director of the FBI, back to our committee. I was here at the time when Judge Webster was nominated for the position of the FBI, and it was a time of very considerable crisis about the future of that very important organization for our country. I think the willingness of Judge Webster to alter and change in a very significant and important way his own career commitments and willing to undertake this responsibility. I know it gave a great sigh of relief to millions of Americans, and I must say that I think all of us want to express appreciation for the service that has been rendered by you, Judge Webster.

We are going to continue to call on you in the future, and we want to welcome you back to the committee and testify in these matters and comment on these matters. I think all of us, perhaps particularly because of the various other thunder that is going on in the country at the present time, we are mindful of the work that you have done in one of the very important agencies of government.

I just personally want to express my appreciation to you.

Now, if I can just—I know that the chairman has a number of matters to go. All of us understand the complexities of timeliness and we appreciate your extending your courtesies to the members of the committee, permitting us to inquire of you during this what would normally be considered to be the lunch hour.

I have just maybe three or four areas I would like to gain your response to, and then perhaps we can ask some—can file some additional statements.

One is in the area of the Miranda warnings. We have heard a good deal about various proposals about alteration and changing the Miranda warnings. You have stated the FBI warned criminal suspects of their rights 20 years before the Miranda decision. And, as you know, Chief Justice Warren's opinion in Miranda quoted Mr. Hoover on the value of these warnings, described the Bureau's procedures favorably and in great detail in the course of requiring that warnings just like those given by the FBI be given to all the suspects in custody.

Recently, the Justice Department's Office of Legal Policy urged the Department ask the Supreme Court to overrule Miranda. I am interested in whether you believe that the FBI's policy of Miranda

warnings interfered with legitimate law enforcement activity of the agency?

Mr. WEBSTER. Looking back on the long history of Miranda warnings, because I believe we were giving them some 20 years before there was a Miranda opinion; in fact, our warnings, I believe, are quoted in the footnote to the opinion, I would find it difficult to say that this had been a significant obstruction of effective law enforcement, largely because the sophisticated criminal already knows his right, and I do not think that giving them means anything to him.

I think it is always worth looking to see whether or not those rights, that is those warnings, either in the form in which they are given nor the way in which the courts have taken cases and either suppressed evidence or thrown out convictions, has affected the general enforcement of the law.

I think it is fair to look. I took a look and discovered we were giving—some years ago, and discovered we were giving Miranda warnings to Chief Executive Officers in their board rooms with no custodial conditions at all, and we started reading their warnings to them. And they would say do you think I need a lawyer, then I will have a lawyer. And we got nowhere doing that, so we reviewed it and concluded that Miranda did not require that. Since there was no custodial condition, Miranda was not required. So in those situations, I stopped giving Miranda warnings to presidents of companies in the effort of getting more effective cooperation.

I think we can always do that within the spirit of what the Miranda opinion in its present form now requires us to do. It is apparently not a constitutional issue, but one of preserving the purity of the system and the fairness of the system.

Senator KENNEDY. Well, I imagine the agency itself is constantly reviewing the various procedures which you followed and on ways that you can be more effective in carrying forward your investigative function.

But has the FBI urged the change in the current—well, in your current rules, your current regulations of providing Miranda warnings? Have there been any recommendations for change that you know of?

Mr. WEBSTER. No, there have not, Senator.

Senator KENNEDY. And you are able to carry forward your own—you believe your own responsibilities following the current court decisions under Miranda with the warnings that are required?

Mr. WEBSTER. I believe in general that is true.

As long as the courts understand the terribly difficult circumstances under which police officers, as well as FBI agents, have to function and make very quick decisions, under decisions that could be potentially life-threatening, and do not exact a classroom type of expertise from the police officer and will look at the circumstances in that light, we will get along just fine.

It is when they apply the kind of expertise to a situation to require it rather, that a fellow judge can do with 2 months to think about it, that I think we have problems with these requirements. But as long as there is that latitude and understanding and reasonable commonsense I think we are all right.

Senator KENNEDY. It would be safe for me to assume that at least the requested change by the Justice Department in the Miranda warnings was not at the instigation, at least, of the FBI?

Mr. WEBSTER. That is correct.

Senator KENNEDY. In a second area, this is on the budget authority, on the civil rights provisions of the budget authority.

We noted that, according to the Justice Department's records, there were about eight incidents of racial violence in 1978, 276 incidents in 1986. So whatever figures you want to use, and I am not interested in debating those questions, I think we can assume that there has been a significant number of racial incidents reported in recent times.

Given those circumstances, the real question is do you have adequate resources to investigate these incidents?

Mr. WEBSTER. I believe that we do for this reason. If you recall, when you were chairman of this committee, I said that in two areas, civil rights and terrorism, even though the budget is small, we would always spend what was required, because when there was a serious incident in either of those areas, they went right to the top of our priorities. That is the way I have been trying to function.

Senator KENNEDY. I know a good deal has been made of the various church break-ins. I was wondering what you might be able to tell us on the investigation of the unsolved burglaries where the victim was a church or organization which in a number of these incidents is opposed to U.S. policy in Central America.

One of the churches that has been selected, as I understand it, by the FBI is the Old Cambridge Baptist Church in my own State of Massachusetts, one of the hardest-hit victims, and on February 20, 1987, Deputy Attorney General James Turner told the House Subcommittee on Civil and Constitutional Rights that the Department of Justice is in the process of evaluating information about the Old Cambridge Baptist Church break-in to determine whether further information is needed before a decision can be made about the existence of Federal jurisdiction over those crimes.

Would you be in a position to comment now about the status of the Department's evaluation specifically of the Old Cambridge Baptist Church, or can you supply that later on?

Mr. WEBSTER. I will supply later anything I fail to mention now. I am not aware that we have gotten authorization to conduct a civil rights investigation in the Cambridge Baptist Church one.

There is an organization here in Washington that has been largely a lobbying organization, and because it exercises primarily the constitutional function of petition for redress of grievance, we were given authority to look into that one to see whether we could find any evidence of civil rights violation.

We have been watching and monitoring these various break-ins. There are various reasons that have been supplied and I think there have been some solutions. We have not at this point——

Senator KENNEDY. Is that the Robert White——

Mr. WEBSTER. Pardon me?

Senator KENNEDY. Is that former Ambassador White's——

Mr. WEBSTER. Yes, that is his organization, the one that we are looking into.

There are some disturbing factors having to do with types of records taken, but there has been some property stolen, although other property has been ignored. We simply have not gotten to the point where we have been authorized by the Department to do anything more than that.

Mr. Clarke, who is with me—Floyd Clarke, Assistant Director—has been keeping a personal eye on all of those burglaries and if there is a basis for Federal intervention, we will do it, but currently we only have the one investigation here in Washington.

Senator KENNEDY. Well, I will submit questions on that just to develop that, and then if I could conclude, because the Chair has been very kind to let me intercede, I have one other area I would like to ask about.

The CHAIRMAN. Before you leave that area, is it appropriate, I ask the Senator from Massachusetts, whether or not we should request the Department to make such an inquiry.

It seems to me that the point the Senator from Massachusetts is making is it is not just merely a single incident. Now, whether or not they are all tied in remains to be seen.

The reason I intercede, I say to my colleague from Massachusetts, is I thought, speaking to this last part in the beginning—I was under the impression that you were looking into whether or not there was a pattern in all of these. Am I mistaken?

Mr. WEBSTER. We are trying to identify patterns in these, but patterns alone do not give us the kind of jurisdiction that we need, and we are trying very hard to be sure we are not missing something here.

The CHAIRMAN. I would be delighted as chairman of this committee to join with my colleague from Massachusetts in any request of the agency to pursue this further.

Senator KENNEDY. Well, I would welcome that, and I thank the Chair on it. I understand that Mr. Turner, who is the Deputy Assistant Attorney General, had indicated, and I quote,

> In addition, we are presently evaluating information obtained about a multiple unresolved break-in at the Old Cambridge Baptist Church in Cambridge to determine whether further information is required to determine federal jurisdiction.

In his testimony, he indicated a number of other areas that they were reviewing. The Civil Rights Division is looking into it and will determine whether the FBI should investigate.

So if the Chair would work with other interested members to find out exactly the status of that kind of review, I think it would be very, very important and I would certainly appreciate it.

The CHAIRMAN. I can assure my colleague of that.

Senator KENNEDY. Good.

The CHAIRMAN. I look for the cooperation of the agency in that regard.

Senator KENNEDY. I just finally wanted to ask, if I could, Judge Webster, about the FBI and the enforcement of the immigration laws.

Mr. WEBSTER. Surely.

Senator KENNEDY. As you know, there have been different news reports about the role of the FBI and the INS, as alleged in one

case, with a number of Palestinians. My basic question is what is the FBI policy in working with the INS.

Let me give you at least what I would hope in your response you might address. Did the FBI undertake the investigation years ago—this is to the extent that you can answer this—with regard to the Palestinians because of possible immigration law violations or did the FBI simply turn the case over to the INS after they could not charge them with criminal statutes and found that there were technical violations of the immigration laws?

You know, I suppose I am interested in finding out if the FBI is going to be enforcing the immigration laws, but I would be interested specifically if you could talk about the case involving the Palestinians and then the broader question about how you view the enforcement of the FBI.

Mr. WEBSTER. Surely.

The investigation involved the PLFP, which has international terrorism implications worldwide, and is an organization which has been responsible for a number of terrorist incidents of major proportions, from the Olympics to the Entebbe incident.

The investigation in this country was important from our perspective because it is important that we know about the infrastructures from the Middle East that are operational in this country and be on top of a situation where they might be utilized for any of the many threatened reprisals that have come from the Middle East in our dealings with that part of the world.

We did not develop information that would warrant charging the particular individuals with any of the offenses which are within our jurisdiction, but we did develop information which indicated a violation of the—I believe it is the McCarran Act, and that information was turned over to the Immigration and Naturalization Service.

I do not want to distance ourselves from INS on that. We did supply the information, and it is my understanding that some FBI agents were in the area when the arrests were made in case they should be needed. I think INS was dealing with members of a group that had a worldwide reputation; they did not know what they were dealing with.

We have, because of a one particular allegation about a woman who, not yet identified through her own name, through her lawyer has contended she was mistreated during that period, although not actually charged with anything—and we have opened a civil rights investigation, preliminary inquiry, to determine whether there is anything to that at all. We know absolutely nothing about it.

I had a meeting with Commissioner Nelson and he knows nothing about it, but nonetheless it is important that we try to find out whether such an incident took place. We are also working together to be sure that in the future that the activities taken are not only well based within our authority, but are done in a rational manner, which is not to say it was not done so in this case, but there were enough questions raised about it that we want to be sure that questions of that kind are not properly raised again.

Senator KENNEDY. OK. Well, thank you, Mr. Chairman. Thank you, Judge Webster. I have just a few others which I will submit

for the record, but I want to thank the judge and thank the Chair very much for indulging me.

[The aforementioned material follows:]

Question. Has the FBI received authorization from the Department of Justice to conduct a civil rights investigation into the break-in of the Cambridge Baptist Church?

Answer. By memorandum dated April 6, 1987, the Department of Justice, Civil Rights Division (DOJ–CRD) authorized the FBI to conduct a limited investigation into the break-ins of the Cambridge Baptist Church which occurred between September 1984 and June 1986 to ascertain whether a violation of the Federal Civil Rights statutes has occurred. The FBI's investigative results will be furnished to the DOJ–CRD for their review and prosecutive opinion.

Question. What is the status of the investigation involving the break-in of various organizations and churches who opposed U.S. policy in Central America?

Answer. The FBI has reviewed local law enforcement records regarding break-ins of various organizations and churches which have come to the attention of the FBI. This inquiry has failed to disclose any common linkage and, in fact, several arrests have been made and convictions obtained by local authorities for charges of breaking and entering and burglary.

The CHAIRMAN. Thank you, Senator.

Before I go back to the DEA and the FBI, let me ask you about a subject that we discussed when I was on the Intelligence Committee. Under the Foreign Intelligence Surveillance Act, the FBI is required to obtain a warrant for wiretaps and electronic surveillance, but not for physical searches.

In 1980, you testified before the Intelligence Committee that the process for obtaining warrants for wiretaps was effective and that you supported requiring warrants for physical searches.

Do you still favor warrant requirements for physical searches?

Mr. WEBSTER. Mr. Chairman, I no longer think that warrants are needed because of the procedures that we now follow utilizing the President's inherent authority to protect the national security, and I am satisfied that what we do comports with legal requirements.

As far as the use of warrants by, presumably, a FISA court that would have the same security, I do not have any real problem with that. If the committee feels that some legislation along that line is necessary, we can certainly live with it.

The CHAIRMAN. If it is within the FISA court circumstance?

Mr. WEBSTER. Yes.

The CHAIRMAN. Has the FBI had any significant problems with the court order procedure provided by FISA for national security surveillance? In those areas where you are required to have a warrant, has it worked?

Mr. WEBSTER. It has worked beautifully; from our point of view, it has worked beautifully.

The CHAIRMAN. The Intelligence Committee issued a public report on counter-intelligence last year recommending that the FISA court be given statutory authority to review searches as well as electronic surveillance.

If the Judiciary and Intelligence Committees work closely together on this issue, would you work with us to deal with what some of us think is this legal limbo for FBI counter-intelligence searches?

Mr. WEBSTER. Certainly, we would be happy to.

The CHAIRMAN. I appreciate that.

With regard to the DEA–FBI merger talk that has been taking place, I understand that you were a member of the Justice Depart-

ment task force that recommended against the merger of the DEA and the FBI.

I have opposed merger for a long time, but can you tell me, if, A, you recommended against it and, B, if you are able, what your rationale for recommending against merger was?

Mr. WEBSTER. First, I did not recommend against merger.

I want to be careful of what I say next because I have given my recommendation to the Attorney General and he has to make a decision. I do not want to appear to be publicly pushing him in any direction.

I believe that a merger—and I do not use that word because it is almost pejorative now, but I believe that the further integration of the FBI and DEA is possible and would be effective.

I think it has a couple of major problems which would require legislative assistance, one of which is that the DEA is not a totally exempt service; it is not one of the excepted service. I believe that is very important; it has been the key to the FBI's ability to function quickly, smoothly and with discipline.

It should be in the excepted service.

The CHAIRMAN. Would you make that recommendation whether or not there was a further integration?

Mr. WEBSTER. Absolutely.

Second, there is some technical legislation that ties in with that. We cannot use our money to pay people who are not in the excepted service; it is a technical thing. So there are some bits of legislation around that need to be addressed.

I feel very strongly that because the drug problem is the number one crime problem in the United States--without my having to explain why, I think you understand that—that there must be a clearly identifiable drug mission, whether it is in the FBI or as a separate agency, the DEA.

It cannot be just one of those things that the FBI does, and it is possible to configure our own organization so that that mission is clear and gets the full support of the agency and the Congress can oversight the activities of the Bureau with respect to it. So it is manageable.

There are other objections to it that have been carefully raised and carefully considered, and the Attorney General has all of those. But I wanted to be sure that you knew that I was not opposing an integration.

I wanted to go forward, as we have done the last 4 years, to come together like a couple of water skiers behind the motor boat and to see how well we could function together. We are already training all of DEA's agents at our FBI Academy at Quantico.

I mentioned in my testimony the digital voice privacy program, the utilization of integrated systems that will increase our effectiveness whether or not we are totally integrated. There are number of other things we can do.

The standards of DEA new agents admissions are now approximately paralleling our own, and I have had an ongoing link-up committee that identifies these differences and tries to reconcile them.

We are moving toward uniform guidelines for informants, undercover activity, that type of thing. I continue to believe it is doable,

but it would require congressional support as well as the support of the Attorney General to make it work.

The CHAIRMAN. Was I correct in that the task force did recommend against, though?

Mr. WEBSTER. I am trying to recall what task force that might be. We had a number of committees that have been looking at this. I formed one right after we got the jurisdiction and it came back with its report.

There was an Ash Report which predated my coming to the Bureau that said that the only way to make it work was to do it totally, but they did not think the two agencies would agree to that, so they gave up, and that was the so-called Ash Report.

The CHAIRMAN. I guess to be more specific. Our source of this information was a newspaper report, and I will just read it to you. It says,

> Attorney General Edwin Meese is expected to announce soon a Justice Department recommendation against fully merging DEA with FBI, sources say. The Justice Department sources report that the task force included Meese, Webster, and DEA Administrator John Lawn, and has concluded that too many obstacles exist to total merger.

Mr. WEBSTER. I did not think of that as a task force. We have been working together; we have been presenting the pro and con arguments. The Attorney General has not made a decision, nor do I know what that decision will be.

We did consider a number of the obstacles.

When we talk about total integration as distinguished from partial integration, one of the issues is the regulatory function of the Drug Enforcement Administration and whether or not, should there be an integration of the two enforcement agencies, that particular function should be spun off into the Department or some other organization.

That is a separate area of discussion. I tend to think it should go to the Department or some other regulatory function, but there are valid arguments against that. But I think it should.

The CHAIRMAN. Well, the FBI has a very big agenda. One of the reasons why I think we might need a lead agency on narcotics, but we will keep coming back to that time and again.

According to the Chief of the FBI's Narcotics Section, there are 38 coordinating initiatives between DEA and the FBI that were under consideration. Have any of these initiatives, to the best of your knowledge, been implemented, and what is the status of the others that have not been implemented?

Mr. WEBSTER. It is a very lengthy subject and some initiatives are bigger than others. But the training, for instance, was such an initiative and we studied it to see whether we could do it. We moved the training up from Glynco; we put it in place and it has been working very effectively.

The CHAIRMAN. According to the FBI Narcotics Section Chief, the FBI devotes over 1,000 agents to narcotics enforcement. Yet, only 435, or less than one-half of these, are devoted to the Organized Crime-Drug Enforcement Task Forces which were established to target the highest levels of drug traffickers.

What types of investigations are these other agents involved in? Can you explain why they are not part of the task force system?

Mr. WEBSTER. Yes, I can. The task forces were never intended to subsume the drug missions of the various agencies involved, but to be utilized in those cases, largely high-impact and important cases, in which multiagency cooperation would produce a better result than a single agency or even a joint agency effort.

We funded our participation in OCDETF, as it is called, for a long time before we had any money to put in it; I mean, we were doing it out of other funds. I think we have given it a very heavy commitment the last several editions. About half of what the Congress gave us last time went into OCDETF and the other went into general drug enforcement.

We support those programs and have been active participants in them, but there are many cases that do not require that conglomerate approach to criminal investigation.

The CHAIRMAN. So there are investigations that are not part of the task forces that deal with drug enforcement regarding organized crime or drug enforcement regarding other areas?

Mr. WEBSTER. That is correct.

The CHAIRMAN. The recent strategy published by the National Drug Enforcement Policy Board called for the creation or expansion of specialized investigations units for forfeiture, money laundering and tax violations.

Your budget, however, only requests funds for one additional agent for forfeiture and none specifically to target money laundering or tax violations. How is the FBI implementing the national strategy?

Mr. WEBSTER. Well, as I said earlier, our focus with all of the resources we have had in the past has been on organized crimes and drugs, financial crime and drugs, and public corruption and drugs, and then the national strategy that we adopted identified those particular groups against which those efforts would be made, so that we already were into financial crimes.

We think the money laundering provisions of the comprehensive package in the last session was probably the one that impacts most on the FBI. Most of the other things, the money and the resources, and so forth, that appeared in that overall package seemed to me to affect interdiction and other efforts rather than the FBI.

We did not ask for, nor did we receive, very much additional resources. But the focus on the money laundering is very much a part of what we do and where we will put our resources. We just do not have a money laundering division. Money laundering is something that develops through other organized crime investigations.

The CHAIRMAN. With regard to some technological changes, you are obviously a very sophisticated agency, but the common perception on TV and in the media is that once a fingerprint is found at a crime scene—the so-called latent print—that that print, without any additional information, can be matched against the prints kept on file by the FBI. That is not true, is it?

Mr. WEBSTER. No, it is not, Mr. Chairman. I wish I did not have to admit that in public because I may be educating some people who would otherwise think we can do it. But it requires ten fingerprints for an unknown subject unless we want to try to search 23 million subjects' fingerprints to find the one subject.

A latent print has been one of the areas that I have focused my interests and my hopes for some time because the computerization of our fingerprint cards gives us that potential for the future.

We have been trying to deal with latent fingerprints in a way that can be effective, and we have, I would estimate, a universe of about 200,000 cards that have been keyed to recidivists in particular crimes, so that we can search that file with the facilities that we have.

We are doing much better with enhancing fingerprints. With the use of the laser, we can take a fingerprint out of the inside of a glove or a styrofoam cup, but unless we have a definable universe of subjects, we cannot automatically take one fingerprint and say to whom it belongs.

Now, if you will indulge me, because I am very proud of that investigation, you will recall the investigation of the Smith-Kline threat against tampering with the Contac pills.

The CHAIRMAN. Yes.

Mr. WEBSTER. Among the other avenues of investigation that we used was to say that someone is trying to influence the value of this stock, that is causing it to fluctuate, by threatening to take it off the—they did take the Contac pills, and others, off the market. By using that avenue we developed a suspect who was gambling in—speculating in—Smith-Kline stock, and matched that against one single fingerprint on the carton of a Contac pillbox that had been tampered with in Orlando, FL.

If we can put two things together we can make the case, but you are right, we do not have, currently have the ability to take one latent fingerprint. But with the computerization of our cards, the potential for doing that grows.

The CHAIRMAN. Increases.

Mr. WEBSTER. Increases.

The CHAIRMAN. Well, the reason I raise it is that several States have, I am told, developed a system called AFIS.

Mr. WEBSTER. That is right.

The CHAIRMAN. It stands for automated fingerprint identification systems, that can match prints solely on the basis of print pattern without any additional information. Are you all studying these systems?

Mr. WEBSTER. We are very much aware of that, and although there is a certain proprietary bias present in the identification division about that method, the single greatest obstacle is the sheer volume of FBI fingerprints, and trying to make a switch. It is like going from VHF to UHF, when you have the heavy commitment that we do, but we are watching it, and any kind of technology that we can incorporate in our system without starting from ground zero, we certainly want to do.

The CHAIRMAN. Have there been any cost analysis or analysis done by you all in the agency to determine whether or not the FBI could move to an AFIS system?

Mr. WEBSTER. I think so. I do not know in what detail, because the obvious problem of the numbers of fingerprints was there, but if there are any such figures I will be happy to supply them to you.

The CHAIRMAN. I would appreciate it, and would appreciate knowing what internal studies you may have done to determine

whether or not the technology is applicable, or the cost would be just so astronomical that this does not make sense.

Mr. WEBSTER. I will be happy to report to you on that.

[Aforementioned follows:]

Question. Many states have developed or are developing state-of-the-art fingerprint systems, the Automated Fingerprint Identification Systems (AFIS), that will be able to identify latent prints solely on the basis of the print pattern, without any additional information. Has the FBI studied these systems?

Answer. The FBI is familiar with all of the AFIS systems developed or under development in the states. All of these systems are based on fingerprint minutiae matching technology that is an outgrowth of the development of automated fingerprint searching systems at the FBI. Minutiae are the unique fingerprint characteristics known as ridge endings and forks in ridges (bifurcations) which occur within the pattern of a fingerprint, rather than the print patterns which refer only to the basic shape of the pattern formed by the ridges such as an arch, a loop, or a whorl. Except for the FBI's system, none of the AFISs identify latent prints solely on the basis of the print pattern. The FBI developed a system for searching latent fingerprints that uses fingerprint patterns to perform an initial screening of the file. This almost always results in far more records being submitted for review than can actually be reviewed by a Fingerprint Specialist. Therefore, after the initial screening by pattern, the number of resulting records are ranked by scores resulting from automated matching of minutiae. The system became operational in 1984. It searches a file of minutiae established from 150,000,000 fingers of 18,800,000 persons having criminal records.

Question. The FBI is implementing its AIDS–III System at this time. When will be AIDS–III System be fully operational? At the time the AIDS program had begun, what was the cost estimate and time estimate for full implementation? How much has the system cost to date, and what will be the total cost once fully implemented?

Answer. The AIDS–III System will be fully operational by the end of 1987. The cost estimate for AIDS–III was $40,000,000 and the estimated completion date was October 1, 1987. To date the system has cost $32,868,811, including approximately $1,000,000 for an addition to the J. Edgar Hoover FBI Building sprinkler system which had not previously been required by the General Services Administration at the time of initial construction. The total cost is now estimated to be $43,132,409.

Question. Will the AIDS–III System be able to identify latent prints solely on the basis of the print pattern? How long will it take to process such a request?

Answer. Latent fingerprint searches at the FBI will be processed on a system other than AIDS–III, although AIDS–III will support that system. As in all Automated Fingerprint Identification Systems, the FBI's system is based primarily on minutiae matching although occasionally latent fingerprints can be identified on the basis of searching a particular geographic area solely on the basis of fingerprint pattern classification. Certain types of latent search requests can be searched in a few minutes. Those searches that will be supported by AIDS–III are planned to be processed overnight.

The latent fingerprint search system referred to will perform two different types of searches and the Fingerprint Specialist submitting the search will select either type. One type will access the AIDS–III file minutiae of 150,000,000 fingers of 18,800,000 persons with criminal records. This type of search will be entered and accumulated during the day for transmission to AIDS–III. The AIDS–III minutiae records will be extracted overnight and will be available to the latent fingerprint search system for processing at the start of the next working day. The other type of search will access the minutiae of fingers of less than 200,000 persons. These records on persons such as fugitives wanted by the FBI will be search in a matter of minutes. This type of search offers more flexibility and rapid response. Both types of search capability have been used by the FBI since 1984 with the predecessors of AIDS–III, and are currently being modified to operate with AIDS–III.

Question. How many latent prints has the FBI searched through its AFIS system in the past 12 months? Of those, how many have you identified? What demographic information is used/required when conducting a search?

Answer. During the past 12 months, the FBI has conducted AFIS searches on almost 500 cases involving latent prints. The actual number of latent prints searched, although uncounted, is probably about 1,000, based on observations that cases average about two fingerprints being searched. Of those searched, 15 cases had latent prints identified as a result of an AFIS search. These latent prints are often of low quality with only a portion of the minutiae that would appear in the file. They do not match any of the known suspects and frequently all other investigative

approaches have been exhausted. There is no way of knowing whether the prints are for a person with a prior arrest record in the FBI files being searched, but when the search reveals that they are, it constitutes a major breakthrough in the case.

The only required information in a search is fingerprint pattern classification, although most searches utilize minutiae matching. Other information that can be used at the latent Fingerprint Specialist's discretion include: sex; race; height; weight; hair color; eye color; scars, marks, or tattoos; age; place of birth; previous location of arrest; and type of crime for previous arrest. Usually some of this information is used in a search to limit the number of file records for which minutiae will be matched by the computer or compared by the Latent Fingerprint Specialist.

Question. Is there a maximum number of file records that will be compared against the search print for a latent print search? For a ten print search?

Answer. There is no limit on the number of file records against which latent fingerprint minutiae are computer matched. The number of candidate file records that are then compared by a Latent Fingerprint Specialist is a matter of judgment, but the system only prints out up to 150 file candidates.

For a ten-print search, the maximum number of file records against which minutiae are matched is 259, although the average is approximately 70. The number of candidate file records that are then compared by a Fingerprint Examiner is usually zero and seldom more than one, even though there is no set maximum. This occurs because almost all ten-print searches are conducted on individuals who have no prior arrest record. The automated search capability is powerful enough to make that determination in over 90 percent of the searches, resulting in zero candidates to be compared. On less than ten percent of the searches, a comparison must be conducted by the Fingerprint Examiner, and on a few of those searches, more than one candidate is produced.

Question. Is the system fully operational? If not, when will it be? How much new funding will you need to fully implement this program? Are there plans to expand the program in the future?

Answer. Artificial Intelligence (AI) and expert systems initiatives are underway in the area of labor racketeering, narcotics interdiction, counterterroism, generic name search capabilities, and decision support. Funding totaling $13,834,000 has been obligated for the development of these expert systems. These expert systems will be completed with the funding already provided, excluding the decision support system which requires outyear funding. It is anticipated that this system will require additional funding of approximately $3 million.

The status of on-going initiatives is as follows:

The Labor Racketeering Expert System is interfaced with the FBI's Organized Crime Information System (OCIS). Increased funtionality of the Labor Racketeering Expert System has been achieved through the use of prototyping methodology and continued rule development by the FBI's organized crime experts in this area, in conjunction with technical personnel engaged in knowledge acquisition. Specifications for the full production system have been defined. A subset of this production system has been installed in an FBI field office to support a major labor-racketeering investigation. The full production system will be completed in 1988.

System support for narcotics interdiction at the El Paso Intelligence Center (EPIC) is operational. EPIC now has the capability to access multiple agency database from a single workstation with a single screen format for all queries. Additional workstations were installed in February 1987 to support new organizational elements at EPIC. The system provides an interface to flight plan sources and uses sophisticated mapping software to track aircraft and vessels and locate radio transmitters. Development of flight plan analysis and automatic query generation is underway. The full system should be completed by the end of 1987.

The Counterterrorism Expert System is being developed through the use of prototyping methodology. The latest prototype includes a variety of initial and general investigative rules and specific, complex, fine-grained rules for surveillance and other operations which have been identified as critical items by investigative experts at FBI Headquarters and major field offices. Full production system design has begun and a subset of this system will be available to FBI Headquarters users in 1987. The final system will be available to all users in 1988.

The first phase of the Generic Name Search Expert System has been completed. This system is now capable of identifying names as belonging to or derived from a particular nationality/language with a reliability in the high 90 percentile. Knowing this derivation, particular linguistic rules can be applied to aid in the search of various databases. The next phase development is to integrate this name search capability with various FBI production systems and incorporate additional linguistic rules. This system will be completed in 1987.

The Payroll/Personnel/Decision Support Expert System is being developed through the use of prototyping methodology. Development of an integrated payroll/personnel system capability to support both the FBI and DEA was mandated by Reform 88. The Decision Support portion of this expert system is a high priority initiative as it will be an important executive management tool supporting decision making both on a day-to-day basis and during crisis incidents. Initial working prototypes of this portion of the sytem will be completed by the end of 1987. The payroll and personnel portions of the systems will be completed in 1987.

The FBI plans to integrate AI throughout its data processing environment. Based on requirements, a multiyear AI developing schedule containing several intiatives including operational support, white-collar crime, organized crime, hostage rescue team, crisis management, surveillance, and crime science analysis, among others, has been formulated.

The CHAIRMAN. Last year the FBI requested $12 million for its artificial intelligence program, and Congress gave you only $6 million. Now, this year you have indicated that this program is still a priority yet you request no new funding.

Is that because you anticipate we would not give it to you, or because you do not need it, or both?

Mr. WEBSTER. You left out a third.

The CHAIRMAN. Well, I am sure I have. [Laughter.]

Why don't you respond, and speak to the third point which may have something to do with how operational you are at this point.

Mr. WEBSTER. Well, I think that our seniors in these matters did not want to press this issue forward. Artificial intelligence is one of those cutting-edge things that holds great promise for the law enforcement community, and for us, particularly in our programs of labor racketeering and terrorism.

We are already finding in our pilot studies that the agents are giving it very, very high marks, and——

The CHAIRMAN. Is the system you have put in place fully operational now? How would you characterize where we are?

Mr. WEBSTER. I do not know whether I would say it is operational. It is being programmed and is being utilized. Just a minute.

[Pause.]

Mr. WEBSTER. We have one office where we could call it operational, that is Chicago, and in labor racketeering, and that is where we are getting the very good reports on it.

Well, I neglected the one in El Paso which is not in a field office, but in the Epic Center. We have one going there to assist the drug effort.

The CHAIRMAN. The FBI has indicated that it is targeting, as I indicated, all the organized crime groups in this country.

Does the Bureau make priority decisions about which group among the many you target? I mean, are there ones that are more of a priority than others, based on the nature of their activity, or the size and scope of their involvement?

Mr. WEBSTER. I missed the operative word. In what area?

The CHAIRMAN. As I understand it, the FBI has indicated that it has targeted all the major organized crime groups in this country. Does the Bureau make distinctions about which groups, among the many you have targeted, are greater priorities? Is there a prioritization?

Mr. WEBSTER. There are some rankings, but I have to say that the traditional organized crime families have accounted for so

much of the crime, organized crime in this country, that they all are considered at the top of our organized crime program.

But there are rankings, of course. The Smaldone crime family in Denver is no longer effective. Most of them are in jail.

The commission cases, which is probably the proudest achievement of the Department, were the amalgamation of a number of long-term investigations of specific families that the FBI had under way for several years.

In terms of identifying their effectiveness, some of those families are subordinate, most of them are subordinate to a relatively few, number of very powerful organizations, and we take that into account.

But often we get into the more powerful ones through the convictions, the investigations, and the cooperation that comes out of investigations, the smaller ones of tracking the money out of Las Vegas through Kansas City and into Chicago, gave us our leap up into the principal figures in the Chicago crime family, as an example.

The CHAIRMAN. You have asked for a $13 million increase in your organized crime budget bringing the total to $163 million.

In light of the progress you have made this last year, would considerably more money translate into the ability to do more?

Mr. WEBSTER. I think so. For one thing, we do not assume that there is not an effort to replenish the heads that have been lopped off. For another thing, because of the drug effort which we had to enter without funds, our initial effort was unfunded, and we had to draw from our organized crime funds in order to participate in the 1982, forward, period, before we could get replenished.

Because of that, our efforts in labor racketeering, in its relationship to organized crime, has not been as effective as I think we could be, and a considerable effort is now being directed in that area, to break the unholy alliance between organized crime and some labor leaders in the country.

The CHAIRMAN. Would $13 million be enough for you? You would not be angry if you ended up with $20 million additional there, would you?

Mr. WEBSTER. I would not. I am not sure, someone else might be, but I would not.

The CHAIRMAN. I have more questions, but not many, and I will submit them in writing and keep my promise to you and let you out 7 minutes early. I truly appreciate your accommodating the changed schedule, Judge. It is always a pleasure working with you, and thank you for all the time.

Mr. WEBSTER. Thank you, Mr. Chairman. Thank you very much.

[Whereupon, at 1:53 p.m., the committee was adjourned, subject to the call of the Chair.]

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